



Environmental Administrative Policing as a Mechanism for Environmental Protection under Algerian Legislation

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Abstract:

The Algerian legislator has established several legal means at the disposal of the administration to protect the environment from various forms of abuse and to achieve an environmental setting free from all manifestations of pollution. Accordingly, the administration is empowered to exercise administrative policing functions, which are characterized by their preventive nature, by implementing all necessary measures and procedures to ensure that the environment is not adversely affected. This is known as the precautionary principle.

However, such prior measures may not prevent individuals from committing unlawful acts that adversely affect environmental safety. This situation requires and empowers the administration to take all necessary subsequent measures to ensure that the environment is not harmed and, consequently, to achieve sustainable development.

Keywords: Environmental Protection, Algerian Legislation, Environmental Administrative Policing, Environmental Taxation.

INTRODUCTION

The issue of environmental protection has become one of the most important challenges facing states in recent years, as it is closely related to the lives of individuals on the one hand and, on the other hand, is also closely linked to the issue of economic development. This is because any economic development policy adopted by states must be accompanied by a successful environmental policy based on the preservation of natural resources and their rational use over the long term.

The main reason for the damage inflicted on the environment, as well as the various risks that have come to threaten it, is the negative human activities whose intensity is increasing day by day. Natural resources have increasingly been subjected to depletion as a result of their excessive use. Consequently, this problem has become a threat to both present and future generations. This has led the international community to recognize the importance of environmental protection, given that it constitutes an indispensable means of achieving



environmental sustainability. As a result, numerous international conventions have been concluded with the aim of protecting the environment.

At the national level, it should be noted that the Algerian state has not been isolated from this concern. It has participated in various environmental conferences and has ratified most international and regional environmental conventions.

The first environmental protection law was enacted in 1983, concerning the preservation of natural resources and the fight against pollution. It was subsequently repealed pursuant to the provisions of Law No. 03-10 on the Protection of the Environment within the Framework of Sustainable Development. In addition, the Algerian legislator has enacted various legislative and regulatory texts governing different aspects and components of the environment, particularly Law No. 01-19 of December 12, 2001, on the management, control, and disposal of waste; Law No. 02-02 of February 5, 2002, on the protection and enhancement of the coastline; Law No. 04-03 of June 23, 2004, on the protection of mountainous areas within the framework of sustainable development; Law No. 04-20 of December 25, 2004, on the prevention of major risks and disaster management within the framework of sustainable development; Law No. 07-06 of May 13, 2007, on the management, protection, and development of green spaces; and Law No. 11-02 of February 17, 2011, on protected areas within the framework of sustainable development.

The constitutional legislator has also demonstrated its concern in this regard by stipulating that the citizen's right to a healthy environment is one of the fundamental rights guaranteed by the Constitution¹.

Since environmental protection is one of the requirements of public order, the Algerian legislator has established a set of legal mechanisms to achieve this purpose and has empowered the administration to implement them, whether through prior control or remedial control. This is referred to as the environmental administrative policing mechanism, with the aim of achieving ecological balance.

1- Article 21 of the Constitution of the People's Democratic Republic of Algeria, as amended and supplemented by Presidential Decree No. 20-442 of 15 Jumada al-Awwal 1442 AH, corresponding to December 30, 2020, Official Gazette of the People's Democratic Republic of Algeria, No. 82, issued on 15 Jumada al-Awwal 1442 AH, corresponding to December 30, 2020, stipulates that: "The State shall ensure:

- the protection of agricultural land;
- the provision of a healthy environment to protect individuals and ensure their well-being;
- continuous awareness of environmental risks;
- the rational use of water, fossil energy, and other natural resources;
- the protection of the environment in its terrestrial, marine, and atmospheric dimensions, and the adoption of all appropriate measures to punish polluters."

Article 64 thereof also stipulates that: "Citizens have the right to a healthy environment within the framework of sustainable development.

The law shall determine the obligations of natural and legal persons for the protection of the environment."



Environmental administrative policing consists of a set of measures and restrictions imposed by the administration on individuals in order to protect the environment. It is a means through which preventive environmental protection is implemented by adopting appropriate measures to preserve protected areas².

Based on the foregoing, the following research problem may be formulated:

What are the legal mechanisms granted to environmental administrative policing authorities for the protection of the environment in Algeria?

To answer this research question, the first section examines the prior preventive mechanisms of environmental administrative policing, while the second section addresses the subsequent repressive mechanisms of environmental administrative policing.

1. Preventive Prior Mechanisms of Environmental Administrative Policing

The Algerian legislator has established legal provisions for the administrative protection of the environment by providing for a set of preventive measures intended to prevent acts of aggression or violations that may affect the environment and its components. These measures require the imposition of restrictions on the activities of individuals and industrial establishments in order to address pollution.

The most important prior measures include the licensing mechanism, prohibition, mandatory requirements, the reporting system, the environmental impact assessment system, incentive-based measures, in addition to the administrative sanctions imposed in cases of non-compliance.

1.1 The Licensing System

A license refers to an authorization issued by the administration to engage in a specific activity. Prior authorization must be obtained from the competent authorities, namely the administrative policing authority. It is also defined as an authorization issued by the competent administrative authority following an examination of the technical file, verification that the legal requirements have been met, and completion of the environmental impact assessment³.

Others have defined it as an authorization issued by the competent administration to carry out a specific activity that may not be undertaken without such authorization. The administration grants the license when the conditions required by law for its issuance are satisfied, and its discretionary authority is generally limited to verifying that these conditions have been met and determining the appropriate time for issuing the license.

As a general rule, a license is permanent unless its duration is expressly specified. However, a temporary license may be renewed after the necessary requirements have been fulfilled. Licensing is usually subject to a fee paid by the applicant as one of the conditions required for its issuance.

2- Maryam Labid and Hamid Ben Alia, "The Concept and Mechanisms of Environmental Administrative Policing in Algeria," *Journal of Legal and Social Sciences*, Vol. 06, No. 03, September 2021, p. 1336.

3- Maryam Labid and Hamid Ben Alia, *op. cit.*, p. 1342



The licensing system aims to protect the public interest in the field of environmental protection by regulating the performance of certain activities according to specific conditions whose fulfillment is supervised by the public administration in order to protect the environment from activities that the legislator considers potentially hazardous to it⁴. There are numerous examples of the licensing system in the field of environmental protection, including the following:

1.1.1 License for the Exploitation of the Coast and Beaches:

Beaches and the coastline are among the most important components of the aquatic environment and are classified as part of the public domain of the State pursuant to Article 15 of Law No. 90-30 on State Property. Since the seashore constitutes part of the public domain of the State, it is therefore subject to the general rules governing its management and protection. Accordingly, the competent administrative authority is responsible for managing such property with a view to protecting it, and its exploitation is subject to prior authorization. Such exploitation may be carried out directly by individuals or through a designated public service. The law also provides for the necessity of preserving beaches and sandy strips⁵.

1.1.2 License for the Operation of Classified Establishments:

The Algerian legislator defined classified establishments under the provisions of Law No. 03-10 on the Protection of the Environment within the Framework of Sustainable Development as factories, workshops, work premises, quarries, mines, and, in general, establishments operated or owned by any natural or legal person, whether public or private, which may pose risks to public health, hygiene, security, agriculture, ecosystems, natural resources, sites, monuments, and tourist areas, or may cause disturbances affecting neighborhood amenities⁶.

The Algerian legislator also defined classified establishments under the provisions of Executive Decree No. 06-198 as any fixed technical unit in which one or more of the activities listed in the inventory of classified establishments established by the applicable regulations are carried out⁷.

1.1.2 Forest Exploitation License:

The Algerian legislator has made the exploitation of forests subject to the mandatory requirement of obtaining authorization from the forest administration services, pursuant to

4- Rabia Bouguerat, "The Effectiveness of Administrative Policing in Achieving Environmental Security under Algerian Legislation," *Journal of the Academy for Social and Human Studies*, No. 20, June 2018, p. 246.

5- Ali Boudaf and Saleh Tiri, "Preventive Mechanisms of Environmental Administrative Policing and Administrative Sanctions Resulting from Their Violation," *Journal of Legal Studies and Research*, Vol. 08, No. 01, 2023, p. 234.

6- Article 18 of Law No. 03-10 on the Protection of the Environment within the Framework of Sustainable Development, *Official Gazette of the People's Democratic Republic of Algeria*, No. 43, issued on July 20, 2003.

7- Article 02 of Executive Decree No. 06-198 of May 31, 2006, establishing the regulations applicable to classified establishments for environmental protection, *Official Gazette of the People's Democratic Republic of Algeria*, No. 37, issued on June 4, 2006.



Article 17 of Law No. 84-12 establishing the General Forestry Code⁸. In its simplest sense, this refers to tree cutting, which the legislator described as deforestation, meaning the process of reducing the area of forest resources for purposes other than those contributing to their preservation and management. This law referred the regulation of exploitation licenses to the implementing regulations, which were subsequently issued in the form of Decree No. 170-98 of 1989 concerning the approval of general administrative arrangements and technical conditions for the preparation of specifications relating to forest exploitation.

This decree provided for an exploitation license granted by the forest administration. Before issuing the license, this administrative authority undertakes certain general arrangements, in coordination with the Wali and the State Property Administration. However, the forest administration may not grant an exploitation license until the contracting party has submitted a complete file demonstrating its full compliance with the relevant requirements⁹.

1.1.3 Water Exploitation License:

In order to ensure the protection of water resources, the Algerian legislator, pursuant to the provisions of Law No. 05-12 on Water Law, prohibited any person, whether natural or legal, from using these resources without a license or concession granted by the administration responsible for water resources. According to Article 15 of Law No. 05-12, the license authorizes its holder to:

- construct wells or boreholes for the extraction of groundwater;
- construct structures for the exploration of water sources not intended for commercial exploitation;
- construct facilities and structures for the transfer, pumping, or retention of water;
- establish any facilities or structures for the extraction of groundwater or surface water.

The Algerian legislator has also authorized the administration responsible for managing water resources, within the framework of rationalizing water use, to reject a license application where the needs to be met are unjustified, where meeting such needs would adversely affect the quantitative or qualitative characteristics of water resources, or where it would harm the public interest¹⁰.

1.2 The Prohibition System

Prohibition is a legal instrument implemented by the administration through administrative decisions, whereby it seeks to prevent certain acts because of the risks arising from their

8- Law No. 84-12 of June 23, 1984, establishing the General Forestry Code, as amended and supplemented by Law No. 91-20 of December 2, 1991.

9- Mouna Maqlati and Hamidani Salim, "Environmental Administrative Policing in Algeria," *Journal of Legal and Political Studies*, Vol. 05, No. 02, June 2019, p. 160.

10- Law No. 05-12 of September 4, 2005, on Water Law, Official Gazette of the People's Democratic Republic of Algeria, No. 60, issued on September 4, 2005, as amended and supplemented by Law No. 08-03 of January 23, 2008, Official Gazette of the People's Democratic Republic of Algeria, No. 04, and further amended and supplemented by Law No. 09-06 of October 11, 2009, Official Gazette of the People's Democratic Republic of Algeria, No. 59, issued on October 14, 2009.



practice. One of the characteristics of environmental protection legislation is that most of its provisions are mandatory and may not be violated, as they are related to public order. Prohibition is therefore a form of mandatory rules that restrict both the administration and persons engaged in activities that are harmful to the environment¹¹. Examples of prohibition under the provisions of Law No. 03-10 on the Protection of the Environment within the Framework of Sustainable Development include Article 33, which prohibits any act that may harm natural diversity or alter the character of protected areas, given that the Algerian legislator has subjected them to special protection regimes¹². With regard to the protection of biodiversity, the destruction or removal of eggs and nests has been prohibited, as has the mutilation, extermination, capture, or taxidermy of wild animals, as well as their transportation, use, display for sale, sale, or purchase, whether alive or dead. It is also prohibited to destroy, cut, mutilate, uproot, pick, or remove protected plant species, or to exploit them in any form during their biological cycle. In addition, it is prohibited to destroy, pollute, or degrade the habitats of these plant or animal species whenever there is a particular scientific interest or a necessity related to the national biological heritage that would justify the preservation of wild animal species or uncultivated plant species¹³.

1.3 The Mandatory Requirement System

The mandatory requirement is the opposite of prohibition, since the latter is a legal and administrative measure through which an activity is prohibited and is therefore a negative measure, whereas a mandatory requirement entails the performance of a specific act and is consequently a positive measure. Accordingly, the administration resorts to this method to compel individuals to undertake certain actions in order to ensure the protection and preservation of the environment¹⁴.

There are numerous examples illustrating the mandatory requirement approach in Algerian legislation. With regard to air and atmospheric protection, the second paragraph of Article 46 of Law No. 03-10 provides that industrial units must take all necessary measures to reduce or cease the use of substances that cause the depletion of the ozone layer¹⁵.

With regard to waste, the Algerian legislator, pursuant to the provisions of Law No. 01-19, requires every waste producer and/or holder to take all necessary measures to prevent waste generation to the greatest extent possible, by adopting and using cleaner technologies that generate less waste, refraining from marketing materials that generate non-biodegradable waste, and refraining from using materials that may pose a danger to human beings, particularly

11- Nabila Akgoujil, "The Individual's Right to Environmental Protection for Achieving Safety and Sustainable Development," *Al-Mufakkir Journal*, No. 06, Faculty of Law and Political Sciences, University of Biskra, 2010, p. 344.

12- Article 33 of the aforementioned Law No. 03-10.

13- Article 40 of the aforementioned Law No. 03-10.

14- Nabila Akgoujil, *op. cit.*, p. 345.

15- Law No. 03-10, *op. cit.*



in the manufacture of packaging products. Furthermore, every waste producer and/or holder is required to ensure, or work to ensure, the recovery of waste resulting from the materials it imports or markets and from the products it manufactures. In addition, waste must be recovered and/or disposed of in accordance with conditions that comply with environmental standards, without endangering human or animal health, posing risks to water resources, soil, or air, harming living animal or plant organisms, causing nuisance through noise or unpleasant odors, or adversely affecting landscapes and sites of particular importance¹⁶.

1.4 The Reporting System

The reporting system is a modern approach introduced by the Algerian legislator in line with international developments in the field of environmental protection, through the new provisions relating to environmental protection. This system establishes subsequent and continuous monitoring of activities and establishments, which is referred to as subsequent and continuous control following the granting of licenses. In other words, it is a complementary approach to the licensing system. It facilitates the administration's monitoring of license holders from both financial and human-resource perspectives, through the submission by license holders of periodic reports on their activities¹⁷.

There are several manifestations of the reporting system within the framework of environmental protection. For example, pursuant to the provisions of Law No. 01-19 on the Management, Control, and Disposal of Waste, the Algerian legislator requires producers and/or holders of special hazardous waste to submit a declaration to the minister responsible for the environment containing all information relating to the nature, quantity, and characteristics of the waste, subject to criminal fines. They are also required to periodically provide information concerning the treatment of such waste, as well as the practical measures taken and envisaged to prevent the generation of such waste to the greatest extent possible¹⁸.

1.5 The Environmental Impact Assessment System

The Algerian legislator defined the environmental impact assessment system under Article 15 of Law No. 03-10, which provides that development projects, structures, fixed installations, factories, and other engineering works, as well as all construction and development activities and programs that have an immediate or subsequent, direct or indirect impact on the environment, particularly on species, resources, natural environments and spaces, ecological balances, and the living environment and quality of life, shall, depending on the circumstances,

16- Articles 06, 07, and 11 of Law No. 01-19 of 27 Ramadan 1422 AH, corresponding to December 12, 2001, on the Management, Control, and Disposal of Waste, Official Gazette of the People's Democratic Republic of Algeria, No. 77, issued on 30 Ramadan 1422 AH, corresponding to December 15, 2001.

17- Turkia Sayeh, *Environmental Protection under Algerian Legislation*, Al-Wafaa Legal Library, Alexandria, Egypt, 1st ed., 2014, p. 134.

18- Article 21 of the aforementioned Law No. 01-19.



be subject in advance to an environmental impact assessment or an environmental impact statement¹⁹.

The importance of environmental impact assessment lies in examining the environmental effects of establishments or projects and determining how to address them, on the one hand, in order to safeguard sustainable development and, on the other hand, to protect the environment and preserve its components. Accordingly, the administration responsible for conducting the assessment seeks to take environmental considerations into account when deciding whether to grant or refuse authorization for the commencement of industrial activity. It also seeks to protect such activity from unforeseen environmental problems and to avoid obstacles that may adversely affect its performance.

An environmental impact assessment consists of identifying the negative and positive environmental impacts or outcomes of comprehensive development plans, whether tangible or intangible, direct or indirect, immediate or future, and local, regional, or global, with the aim of addressing or, in particular, preventing harmful impacts and ensuring beneficial impacts, thereby protecting both the environment and development projects²⁰.

The environmental impact assessment or environmental impact statement aims to determine the suitability of integrating the project into its environment, while identifying and assessing the project's direct and/or indirect impacts and ensuring that environmental protection considerations are adequately addressed within the framework of the project concerned²¹.

For example, the Algerian legislator has made the granting of an operating license for classified establishments subject to the mandatory submission of an environmental impact assessment or environmental impact statement, as well as a public inquiry and a study concerning the potential risks and impacts of the project on the environment.

In all cases, the environmental impact assessment or environmental impact statement shall be carried out at the expense of the project owner by study offices, expert offices, or consulting offices accredited by the ministry responsible for the environment²².

The Algerian legislator has also made the issuance of licenses relating to noisy activities carried out in institutions, companies, activity centers, and public or private establishments, whether temporarily or permanently established and not included in the list of classified establishments for environmental protection, as well as noisy sports activities and outdoor activities that may cause hearing damage, subject to environmental impact assessment requirements.

19- Law No. 03-10, op. cit.

20- Amina Reihani, Administrative Protection of the Environment in Algeria, PhD dissertation, Department of Law, Faculty of Law and Political Sciences, University of Mohamed Khider-Biskra, 2015/2016, p. 189.

21- Article 02 of Executive Decree No. 07-145 of 2 Jumada al-Awwal 1428 AH, corresponding to May 19, 2007, determining the scope of application, content, and procedures for the approval of environmental impact assessments and environmental impact statements, Official Gazette of the People's Democratic Republic of Algeria, No. 34, issued on 5 Jumada al-Awwal 1428 AH, corresponding to May 22, 2007.

22- Articles 21 and 22 of the aforementioned Law No. 03-10.



In addition, the Algerian legislator has also made the issuance of licenses relating to noisy activities carried out in institutions, companies, activity centers, and public or private establishments, whether temporarily or permanently established and not included in the list of classified establishments for environmental protection, as well as noisy sports activities and outdoor activities that may cause hearing damage, subject to the mandatory preparation of an environmental impact assessment and public consultation in accordance with the prescribed conditions²³.

1.6 The Incentive Approach

The Algerian legislator has, through the provisions of Law No. 03-10 on the Protection of the Environment within the Framework of Sustainable Development, as well as related legal provisions, granted individuals or institutions engaged in activities that contribute to environmental protection and do not cause environmental harm certain incentive benefits. Among the laws providing for such benefits is Law No. 01-03 on Investment Development²⁴. Article 10 thereof provides that: “Investments of particular importance to the national economy shall benefit from special advantages, particularly when they use specific technologies capable of preserving the environment, protecting natural resources, saving energy, and contributing to sustainable development.” In addition, Article 15 of Law No. 04-09 on the Promotion of Renewable Energies within the Framework of Sustainable Development provides that²⁵: “Activities promoting research and development and the use of renewable energies, as a complement to and/or alternative to conventional energies, shall benefit from incentives, the nature and amount of which shall be determined by the Finance Law.”

In this regard, Article 77 of Law No. 03-10 also provides that: “Every natural or legal person engaged in activities promoting environmental protection shall benefit from a reduction in taxable profit.”

Finally, it should be noted that the incentive approach can encourage investment in non-polluting environmental equipment and contribute to accelerating the introduction of low-pollution or zero-pollution production methods, thereby facilitating the transition toward sustainable development that respects the environment²⁶.

2. Subsequent Repressive Mechanisms of Environmental Administrative Policing

There is no doubt that preventive measures constitute an important framework for administrative intervention in environmental protection. However, such measures often fail to

23- Articles 73 and 74 of the aforementioned Law No. 03-10.

24- Ordinance No. 01-03 of 1 Jumada al-Thani 1422 AH, corresponding to August 20, 2001, on Investment Development.

25- Law No. 04-09 of August 14, 2004, on the Promotion of Renewable Energies within the Framework of Sustainable Development, Official Gazette of the People's Democratic Republic of Algeria, No. 52, issued on August 18, 2004.

26- Nadia Bounaas, “Administrative Protection of the Environment under Algerian Legislation,” Journal of the Researcher Professor for Legal and Political Studies, Vol. 05, No. 02, 2020, p. 236.



prevent individuals from engaging in various acts that may constitute environmental offenses, which makes it necessary for the competent administrative authorities to employ other repressive measures to address the various forms of harm inflicted upon the environment.

It should be noted that the measures employed by environmental administrative policing authorities to deter conduct that is harmful to the environment are diverse and numerous, and they correspond to the environmental offenses committed by individuals or establishments.

The repressive instruments of environmental administrative policing may take the form of a formal notice, withdrawal of a license, or temporary suspension of an activity, in addition to the environmental taxation system.

2.1 The Formal Notice

This approach is considered the least severe and simplest sanction that may be imposed on anyone who violates environmental protection provisions. A formal notice refers to the procedure adopted by environmental administrative policing authorities to notify or warn individuals or establishments in violation of the law of the seriousness of the violation and its potential harm to the environment, and to require them to take the necessary measures in accordance with the applicable legal requirements. In most cases, continuing the violation despite the warning issued by the administration results in the imposition of more severe sanctions, such as closure or revocation of the license.

In reality, a formal notice does not constitute a genuine sanction; rather, it is a warning issued by administrative policing authorities to the person responsible for carrying out the activity, with the aim of correcting the situation and bringing it into conformity with the legal provisions, requirements, and controls. The purpose is primarily to protect against major risks before they materialize; otherwise, more severe repressive measures will be taken²⁷.

The formal notice mechanism has numerous applications in the field of environmental protection under Algerian legislation. With regard to the operation of classified establishments, Article 25 of Law No. 03-10 provides that where the operation of an establishment that is not included in the list of classified establishments results in risks or harm affecting public health, hygiene, security, agriculture, ecosystems, natural resources, tourist sites and monuments, or neighborhood amenities, the Wali shall issue a formal notice to the operator, based on a report prepared by the Environmental Directorate, and shall set a deadline for taking the necessary measures to eliminate the identified environmental risks or harm.

If the operator fails to comply within the specified period, the Algerian legislator has followed the formal notice with another measure, namely the suspension of the activity or operation of the establishment concerned until the required measures are taken. In this regard, the necessary

27- Samir Bouaneg, "Mechanisms of Environmental Administrative Policing in Algeria: What Effectiveness in Environmental Protection?" *Journal of Scientific Research in Environmental Legislation*, Vol. 05, No. 02, June 17, 2018, p. 515.



temporary measures shall also be adopted, including measures ensuring the payment of employees' entitlements, regardless of their form²⁸.

With regard to water protection, the Algerian legislator has required the competent administrative authority to issue a warning to the owner of a vessel, aircraft, machinery, or floating platform transporting or carrying harmful or dangerous substances or fuels that may pose a serious and unavoidable risk capable of causing damage to the coastline and the interests associated with it, in the event of a breakdown or accident in waters subject to Algerian jurisdiction. This is intended to ensure that all necessary measures are taken to address such risks.

If the person concerned fails to comply with the formal notice in this regard, if it fails to produce the desired results within the prescribed period, or in cases of emergency, the competent administrative authority shall order the implementation of the necessary measures at the expense of the owner²⁹.

In the field of waste treatment, the competent administrative authority also resorts to the formal notice mechanism, which the Algerian legislator refers to in Law No. 01-19 on the Management, Control, and Disposal of Waste using the term “order.” Article 48 thereof provides that whenever the operation of a waste treatment facility poses serious risks or adverse consequences to public health and the environment, the competent authority shall order the operator to take all necessary measures immediately to remedy the situation. If the operator fails to comply, the competent authority shall automatically take the necessary precautionary measures at the expense of the responsible party and/or suspend all or part of the activity constituting the violation³⁰.

2.2 Withdrawal of the License

The withdrawal of a license is one of the most important repressive measures to which the administration resorts when dealing with a person engaged in an activity or benefiting from a license who fails to comply with the legal requirements and whose activity becomes a threat to the environment. The competent administrative authority then withdraws the license and deprives the person concerned of the right to carry out such activity.

An example of the application of this approach in Algerian legislation is provided by the provisions of Executive Decree No. 04-188, which establishes the procedures for catching broodstock, larvae, fry, and juvenile aquatic organisms, transporting, marketing, and introducing them into aquatic environments, as well as the procedures for catching, transporting, storing, importing, and marketing marine fisheries and aquaculture products that have not reached the legally prescribed minimum sizes and are intended for breeding, stocking, or scientific research.

28- Article 25 of the aforementioned Law No. 03-10.

29- Article 56 of the aforementioned Law No. 03-10.

30- Article 48 of the aforementioned Law No. 01-19.



Pursuant to Article 03 thereof, this decree made the catching of broodstock and marine fisheries and aquaculture products that have not reached the legally prescribed minimum sizes, as well as their transportation, marketing, and introduction into aquatic environments, subject to authorization by the administration responsible for fisheries. Article 05 of the same decree provides that such authorization is personal and may be revoked in the event of non-compliance with the prescribed conditions.

The matter may also extend to the closure of the activity³¹. In this regard, the Algerian Council of State issued Decision No. 58 27 03 dated May 23, 2007, in which it held that: “The establishment of a public waste disposal site in a populated area without complying with the conditions set out in the specifications and without taking appropriate measures to prevent harm to the safety of the environment and persons constitutes a violation of environmental legislation and entails its permanent closure³².”

2.3 Temporary Suspension of the Activity

Temporary suspension of an activity is one of the measures adopted by the administration to protect the environment when industrial projects engage in activities that have an impact on the environment and when the operator fails to take all necessary preventive measures after having been warned by the competent administrative authority. Accordingly, administrative suspension of an activity constitutes a measure adopted pursuant to an administrative decision, as opposed to suspension ordered by a judicial ruling³³.

This sanction has numerous applications in Algerian legislation. For example, the first paragraph of Article 212 of Law No. 01-10 of July 4, 2001, on Mines³⁴, provides that: “In the event that a violation as provided for in Article 210 above is established, the president of the competent administrative judicial authority may, under expedited proceedings, order the suspension of exploration or exploitation works at the request of the duly authorized administrative authority.”

Article 57 of the same law provides that: “The territorially competent local authorities shall, upon the proposal of the National Agency for Geology and Mining Control, take the necessary precautionary measures, in accordance with the applicable regulations, where mining exploration and exploitation activities are of such a nature as to compromise public security and safety, the integrity of the land and the structural stability of dwellings and facilities, the preservation of communication routes and mining operations, groundwater layers, the use of water supply resources for drinking and irrigation purposes or to meet industrial needs, the

31- Nadia Bounaas, op. cit., p. 239.

32- *Journal of the Council of State*, No. 09, 2009, p. 94.

33- Maryam Labid and Hamid Ben Alia, op. cit., p. 1347.

34- Law No. 01-10 of 11 Rabi' al-Thani 1422 AH, corresponding to July 3, 2001, establishing the Mining Law, *Official Gazette of the People's Democratic Republic of Algeria*, No. 35, issued on 12 Rabi' al-Thani 1422 AH, corresponding to July 4, 2001.



safety and health of workers employed in mining operations, and air quality, thereby posing a risk to neighboring populations.”

In the same context, pursuant to the provisions of Law No. 01-19 on the Management, Control, and Disposal of Waste³⁵, the Algerian legislator provides that where the operation of a waste treatment facility poses serious risks or adverse consequences to public health and/or the environment, the competent authority shall order the operator to take the necessary measures immediately to remedy the situation. If the operator fails to comply, the competent administrative authority shall automatically take the necessary precautionary measures at the expense of the responsible party and/or suspend all or part of the activity constituting the violation.

2.4 Environmental Taxation

Environmental taxation encompasses the various taxes and fees imposed by the state on natural and legal persons who pollute the environment.

Thus, the environmental tax system as a deterrent mechanism constitutes the framework encompassing a set of taxes and fees imposed by the state on natural and legal persons who pollute the environment. These taxes and fees are determined on the basis of economic and technical criteria and in light of political, economic, social, and administrative considerations³⁶. Environmental taxation is one of the most important instruments available to public authorities for reducing the effects of pollution and constitutes an essential complement to the environmental administrative policing mechanism³⁷.

The Organisation for Economic Co-operation and Development (OECD) defines environmental taxation as “those taxes, fees, and charges whose tax base consists of a pollutant, or more generally, a product or service that causes environmental degradation, or which take the form of a levy on natural or non-renewable resources.”

The European Statistical Office (Eurostat), on the other hand, defines it as follows: “Environmental taxation consists of levies whose tax base is related to materials and services that pose risks to the environment or to the exploitation of natural resources, given that any alteration affecting one of their characteristics constitutes environmental pollution that affects their balance³⁸.”

35- The aforementioned Law No. 01-19 on the Management, Control, and Disposal of Waste.

36- Abdelghani Hassouna, *Legal Protection of the Environment within the Framework of Sustainable Development*, PhD dissertation, Department of Law, Faculty of Law and Political Sciences, University of Mohamed Khider-Biskra, 2012/2013, p. 78.

37- Abdelmoneim Ben Ahmed, *Administrative Legal Means for Environmental Protection in Algeria*, PhD dissertation, Faculty of Law, Ben Aknoun, University of Algiers Benyoucef Benkhedda, 2008/2009, p. 104.

38- Soumia Sebaa, *An Attempt to Test the Effectiveness of Fiscal Instruments in Environmental Protection: A Case Study of Algeria*, PhD dissertation, Department of Commercial Sciences, Faculty of Economic, Commercial and Management Sciences, University of Algiers 3, 2014/2015, p. 72.



Environmental taxation is also defined as one of the national policies aimed at correcting deficiencies by establishing a price, fee, or tax on pollution³⁹.

Environmental taxation is also referred to as green taxes or ecological taxes. These are compulsory monetary levies paid into the public treasury without receiving a specific consideration in return. They are mandatory and non-compensatory, and their revenues accrue to the general budget and may be allocated to purposes unrelated to the tax base.

Financial fines, on the other hand, are imposed on violators of legislative provisions relating to environmental protection and are referred to as green fines. Their purpose is not so much to provide financial resources to be allocated to environmental protection as to deter violators of environmental legislation⁴⁰.

There are several purposes underlying the adoption of environmental taxation as an instrument for environmental protection. It contributes to pollution reduction through the deterrent measures incorporated into this mechanism, whether in the form of taxes, fees, or financial fines, as well as through its incentive measures. It also contributes to protecting the environment at both the local and global levels from harmful human activities, encouraging and promoting the avoidance of storing hazardous industrial waste, and achieving environmental and economic efficiency. This is because high taxes on pollution encourage taxpayers to seek to reduce the costs borne by enterprises, which, in the medium term, leads to lower prices. In addition, environmental taxation encourages technological development and scientific research concerning mechanisms and means of reducing pollution, particularly in the most polluting industrial enterprises⁴¹.

Environmental taxation has several applications in Algeria. The Algerian legislator introduced a tax on hazardous or environmentally polluting activities pursuant to Article 117 of Law No. 91-25 establishing the Finance Law for 1992. The amount of this tax ranged from DZD 750 to DZD 30,000, depending on the nature of each establishment⁴².

With regard to the supplementary tax on air pollution of industrial origin, which was introduced under the Finance Law for 2000, it applies to emissions from classified establishments that exceed the legally permitted pollution threshold. The amount of this tax is calculated on the basis of the basic rates applicable to the tax on activities that are polluting or hazardous to the environment. The amount of this tax was also increased through the application of a multiplier coefficient ranging from 1 to 5, depending on the rate at which the prescribed threshold values

39- Kamel Rezig, "The Role of the State in Environmental Protection," *El-Bahith Journal*, No. 715, 2007, p. 100.

40- Abdelmoneim Ben Ahmed, op. cit., p. 104.

41- Afaf Khechai and Asmaa Habchi, "The Role of Environmental Taxation in Achieving Sustainable Development," *Journal of Economics and Sustainable Development*, Vol. 02, No. 02, September 2019, p. 10.

42- Law No. 91-25 of 9 Jumada al-Thani 1412 AH, corresponding to December 16, 1991, establishing the Finance Law for 1992, *Official Gazette of the People's Democratic Republic of Algeria*, No. 65, issued on 11 Jumada al-Thani 1412 AH, corresponding to December 18, 1991.



are exceeded. The proceeds of this tax are allocated as follows: 10% to the municipalities, 15% to the public treasury, and 15% to the National Fund for the Environment and Pollution Control. With regard to the supplementary tax on industrial-origin wastewater, it should be noted that this tax was established through the provisions of the Finance Law for 2003. It is determined according to the volume of wastewater generated and the pollution load resulting from activities that exceed the prescribed threshold values. The amount of this tax is determined by applying the annual basic rate of the tax on activities that are polluting or hazardous to the environment, together with a multiplier coefficient ranging from 1 to 5 depending on the rate at which the permitted threshold values are exceeded. The proceeds of this tax are allocated as follows: 50% to the National Fund for the Environment and Pollution Control, 20% to the state budget, and 30% to the municipalities⁴³.

Finally, it should be noted that although environmental tax policy plays an important role in reducing pollution, it has certain shortcomings. In terms of its implementation, it is characterized by a lack of commitment and transparency in its application. It places the burden of the tax on the polluting party, namely the owners of enterprises, with the aim of requiring them to contribute to the expenses necessary for pollution control and environmental protection. This may lead owners of polluting enterprises to compensate for the payment of taxes by passing the amount on to consumers. Consequently, the consumer ultimately bears the tax burden, making the tax ineffective as a deterrent against the direct polluter⁴⁴.

CONCLUSION

In conclusion, it can be stated that administrative policing aims to preserve public order in all its various components by implementing all necessary measures and procedures capable of preventing or addressing any infringement thereof. This is consistent with one of the fundamental principles underlying environmental protection and the achievement of sustainable development, namely the precautionary principle. Accordingly, environmental administrative policing plays a fundamental role in protecting the environment, given that the administration is the primary authority responsible for environmental protection and therefore utilizes all its powers to establish the preventive authority embodied in environmental administrative policing.

However, the exercise of administrative policing powers by the administration must take place within the framework of the law, given that such actions are subject to administrative judicial review. This serves to protect the rights and interests of individuals and persons in their dealings with the administration. Despite the administration's considerable efforts in the field of environmental protection, it cannot fully cover, monitor, or protect all the components of the environment because of their vast scope and diversity.

This study has reached the following conclusions:

43- Samir Bouaneg, op. cit., p. 524.

44- Maryam Labid and Hamid Ben Alia, op. cit., p. 1349.



- Environmental administrative policing is an effective and efficient instrument for environmental protection, as it seeks to achieve a balance between the requirements of both the public and private interests, thereby contributing to the implementation of sustainable development requirements.
- The purpose of implementing environmental administrative policing is to impose restrictions on the activities of individuals and institutions that are harmful to the environment, given that protecting and preserving the environment constitutes one of the requirements of public order.
- In carrying out its functions, environmental administrative policing authorities are empowered to use several legal mechanisms, some of which are preventive and prior in nature, while others are remedial and subsequent in nature. Preventive mechanisms include the licensing system, the prohibition system, and environmental impact assessment, whereas the repressive mechanisms established to protect the environment include the formal notice system, suspension of activities, and withdrawal of licenses, in addition to the environmental taxation system.

Based on the foregoing, we propose the following recommendations:

- Organizing scientific conferences, seminars, and study days on environmental protection and benefiting from the experience of developed countries in this field.
- Enacting comprehensive and unified environmental legislation covering all components of the environment and incorporating all principles that ensure environmental protection, as well as defining environmental offenses and the appropriate penalties or sanctions applicable to them.
- Assigning the task of conducting environmental impact assessments to specialized technical experts.
- Providing the relevant administrative bodies with the necessary resources and means to enable them to perform their duties effectively and efficiently.
- Working to activate and strengthen the green economy policy, namely environmentally friendly activities, by providing for partial exemptions from taxes and fees for such projects, given their compliance with environmental safety requirements.
- Ensuring coordination among environmental administrative policing bodies at both the central and local levels in order to avoid overlapping jurisdictions, while clearly defining the powers of each administrative authority separately to reduce conflicts of jurisdiction.
- Ensuring that environmental legislation keeps pace with developments taking place around the world, particularly in the technological field, in light of the emergence of new forms of environmental crime.
- Encouraging scientific research in the field of environmental protection by organizing national competitions in this area and establishing scientific research centers specializing in environmental issues.



- Increasing the level of environmental taxation so that it is commensurate with the damage caused to the environment as a result of pollution.
- Implementing the principle of participation by creating opportunities that enable all members of society to participate effectively, fairly, and equitably in environmental decision-making.
- Strengthening the role of the media in environmental awareness through various visual, audio, and print media, as well as through modern social media platforms.
- Encouraging and supporting environmental civil society organizations, as legally accredited associations have the right to initiate legal proceedings and report environmental offenses, among other actions.

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