

THE POLLUTER-PAYER DOCTRINE: A NEW BASIS FOR CIVIL LIABILITY

DR. FERRAH RABIAA¹, DR. FELKAOUI MERIEM²

^{1,2}University of 08 May 1945 Guelma, Environmental Legal Studies Informant (Algeria).

The Author's E-mail: ferrahrabiaa920@gmail.com¹, felkaoui.meriem@univ-guelma.dz²

Received: 03/2024

Published: 08/2024

Abstract:

The new environmental policies have established that the party responsible for causing environmental damage must bear all the costs related to preventive measures against pollution, as well as the restoration of the damaged areas to their original state, based on the polluter payer or polluter pays principle. This is considered to be a special type of liability because of its close link with environmental protection and the specific nature of environmental damage, which has led to the development of environmental liability. This principle also contributes to the establishment of new rules for modern civil liability, as it is a principle that goes beyond the traditional rules of liability based on fault, which have become incapable of compensating these damages.

Keywords: Polluter Payer Doctrine, New Basis, Civil Liability, Environmental Protection.

INTRODUCTION:

The issue of environmental protection has become an obligation for every State by being enshrined in its legal system. This has been confirmed by recent trends, first at the international level and then at the legal level. It is imperative to hold accountable anyone who violates the rules of environmental protection and to make him responsible for repairing the damage caused by this violation.

Algeria, like other countries, has been trying to find the main mechanisms for reconciling the need for development on the one hand and the protection of the environment in the context of sustainable development on the other. This is because environmental risks have become a serious and imminent threat to humanity and other living beings. Therefore, everyone must protect the environment from any pollution that may threaten it, at a time when the dangers threatening the environment have escalated due to technological development and the inventions created by man for his well-being. These have become a source of notable destruction and damage to the environment, transforming it from a source of benefit to a source of harm that constantly threatens it, necessitating the establishment of a legal system capable of preserving and protecting it.

The Algerian legislator has enacted legislation that includes mechanisms to put an end to any behaviour that is harmful to the environment, the most important of which is the Environmental Protection Code, which includes a number of principles aimed at preventing the causes of environmental pollution, whether existing or introduced by man. The “polluter pays” principle is one of the mechanisms established to protect the environment from environmental damage that has special characteristics that make the basis for establishing civil liability to compensate for such damage different from the traditional basis on which liability is based in normal circumstances, as announced in Principle 16 of the 1992 Rio Declaration.

Importance of the study:

The importance of the subject of the study we are dealing with lies in the protection of the environment from the serious dangers that threaten it, starting from the “polluter pays” principle, which is an objective basis for civil liability, since the traditional rules of the latter do not serve the necessary preventive and deterrent purpose.

Objectives of the study:

To shed light on the “polluter pays” principle and its role in compensation for environmental damage, to study it from the perspective of civil liability and its effectiveness in establishing a new approach to the traditional foundations of civil liability, to search for the legal basis on which this liability is

based, to consider the possibility of compensating for environmental damage from the standpoint of the theory of fault as a traditional basis for civil liability, as well as the extent to which the “polluter pays” principle is adopted as a legal basis for claiming compensation.

Research problem:

The research question is To what extent can the “polluter pays” principle be adopted as a new basis for civil liability?

Methodology of the study:

In order to answer this problem, we decided to use the analytical method to analyse the legal texts related to the subject, as well as the descriptive method to familiarise ourselves with the subject of the study and to provide details about its main aspects and legal dimensions, as established in the positive laws.

Study plan:

In order to achieve the objectives set, we adopted a two-pronged approach comprising two sections. The first section dealt with the concept of the Polluter Pays Principle, which we divided into two requirements. The first requirement was the definition of the polluter pays principle and the second requirement was the characteristics of the polluter pays principle. The second section focused on the effectiveness of the Polluter Pays Principle as a basis for claiming compensation for environmental damage, which included two requirements. The first requirement was the legal basis of the Polluter Pays Principle and the second requirement was the impact of the Polluter Pays Principle on the traditional foundations of civil liability.

The first part: The concept of the polluter pays principle

The Polluter Pays Principle, or the Responsibility of the Polluter, is the cornerstone of environmental law at both the national and international level, as it embodies the effective protection of the environment by ensuring that the burden of environmental pollution is borne by the one who caused it, i.e. the polluter¹.

We will address the concept of the polluter pays principle by defining it and outlining its characteristics.

The first requirement: The definition of the polluter pays principle

We will provide a doctrinal definition and a legal definition of the Polluter Pays Principle.

The first subfactor: The doctrinal definition

The English scholar “PRIEUR” defined it as “the polluter bears the social cost of the pollution he causes, which leads to him being held responsible for the ecological damage, in order to cover all the effects of the pollution, not only on property and persons, but also on the environment and nature².

Similarly, the scholar “Sreenivasa Rao”, Special Rapporteur of the International Law Commission, considers the Polluter Pays Principle as the best way to distribute the costs of preventing and combating pollution, and the application of this principle includes both preventive and remedial measures³.

The polluter pays principle means that the polluter, who may have caused pollution by his activities, is obliged to bear the costs of measures to eliminate such pollution and to prevent its harmful effects by restoring the environment to its original condition⁴.

If the polluter is required to bear all the costs of pollution control, he should not receive any financial assistance or support to combat the pollution he has caused, as it would be contrary to the polluter-pays principle for the polluter to receive any form of subsidy or support⁵.

Section Two: The Legal Definition

The Algerian legislator did not include the polluter-pays principle in the 1983 environmental protection law, although several implementing decrees were issued. However, the real consecration of the Polluter Pays Principle came with the 1992 Finance Law, which enshrined the principle in Article 117⁶. It was also enshrined in Law 03/10 on the protection of the environment in the context of sustainable development, which defined it as the principle according to which any person who causes or is likely to cause environmental damage is obliged to bear the costs of all measures to prevent and reduce pollution and to restore the sites and the environment to their original state⁷.



The legislator's aim in enshrining this principle is to make the polluter bear the social cost of the pollution he causes. It is a form of financial pressure on the polluter to refrain from polluting or at least to reduce the pollution resulting from industrial activity⁸, whether the polluter is a natural or legal person. The polluter is obliged to pay the necessary compensation to others to combat this pollution, prevent its spread and aggravation, as determined by the competent environmental protection authorities⁹.

These authorities levy a tax on polluters who cause environmental damage through their various economic activities, the rates of which are determined on the basis of an estimate of the quantity and severity of the polluting emissions¹⁰.

What is also striking about the Algerian legislator's definition of "any activity that has caused or may cause damage to the environment" is that it embodies both the preventive and curative aspects of the polluter-pays principle¹¹.

The explicit recognition of the principle in this law has helped to strengthen legislative, administrative and judicial practice, as it is a mandate from the Algerian legislator to the competent national public administration bodies to formulate policies and monitor the practical implementation of environmental legislation, especially since the principle is applied at the national level in more realistic situations, far removed from the compromises raised at the international level¹².

The second requirement: Characteristics of the Polluter Pays Principle

The first branch: An economic and legal principle

An economic principle that ensures a fair distribution of the costs of environmental protection, regulates the value of this charge and makes it possible to establish a financial policy for combating pollution and reducing its effects¹³. Its origin lies in the application of an economic rule that aims to impose a tax on the good or service that causes environmental damage, and also aims to promote the optimal and rational use of natural resources¹⁴.

It is a legal principle that corresponds to the idea of justice by obliging those who cause environmental damage to bear the consequences and to be responsible for compensating and repairing the damage¹⁵.

The second branch: A preventive and remedial principle

This is a principle of a preventive nature, since the person responsible for the activity that is harmful to the environment bears all the costs necessary to prevent the occurrence of environmental damage. The aim is to encourage all users of environmental resources to take greater care to prevent or reduce pollution¹⁶. It is clear that the Algerian legislator, through article 3, paragraph 7, of the above-mentioned law 03/10, has emphasised the preventive nature of the "polluter pays" principle through the phrase "may cause damage to the environment", which requires the polluter to bear all the costs of preventing and reducing pollution¹⁷.

It is also a remedial principle, as it guarantees compensation for the damage caused by pollution¹⁸. The legislator also emphasised the remedial nature of this principle in article 3 of the aforementioned law, by stating that "any person whose activity causes damage to the environment shall bear the costs of all measures to restore the places and their environment to their original state"¹⁹.

The second issue: The effectiveness of the polluter pays principle as a basis for compensation for environmental damage

The nature of the environmental damage caused by the various activities that pollute and aggravate the threat to the environment makes it necessary to seek compensation for this damage on the basis of the polluter-pays principle. This makes it necessary to examine its legal basis in both French and Algerian law, as well as its impact on the traditional bases of civil liability.

The first requirement: The legal basis for the polluter pays principle

The polluter pays principle evolved in the 1990s from an economic principle to a legally recognised principle, enshrined in many international environmental agreements and national legislation. It is seen as an application of the well-known principle of "the gain with the loss", where the entity operates, makes a profit and pollutes the environment, and therefore pays for it. Accordingly, the "gain with the loss" principle is the legal basis for the polluter pays principle²⁰.



The first branch: In French legislation

The French legislator was the first to enshrine this principle in the 1995 law to strengthen environmental protection, known as the Barnier law²¹. During the debate on this law, members of parliament proposed the introduction of an environmental tax, but there was disagreement on how this tax should be introduced, how it should be financed and to whom it should be paid. In the end, the Barnier Law was adopted, which established the polluter-pays principle as one of the financial means to generate new tax revenues. Similarly, taxes related to pollution were enshrined in the 1999 Finance Act²².

The second branch: In Algerian legislation

Despite the adoption of several implementing decrees for the 1983 environmental protection law, the Algerian legislator did not incorporate the “polluter pays” principle into the law. It was not until the 1992 Finance Law that the principle was actually enshrined. As for the implementing decrees of the Finance Law concerning the application of pollution taxes, they were all issued in 1993. The value of these taxes on polluting or hazardous activities was revised in 2000 under Article 54 of that year’s Finance Law, and recently revised again under Article 88 of the Finance Law of 2020²³.

This latest Finance Law also introduced a new tax related to an additional charge on industrial waste water, based on the volume of water discharged and the pollution load resulting from the activity exceeding the established limits²⁴. It also introduced a new annual pollution tax on vehicles and mobile machinery²⁵, payable by the owner of the vehicle or machinery when the insurance contract is taken out.

The legislator considers the polluter responsible for the damage caused to the environment by his activities, even if these activities are legitimate and comply with legal norms and criteria. In this way, the legislator recognises material damage²⁶.

The second requirement: The Impact of the Polluter Pays Principle on the Traditional Foundations of Civil Liability

Traditional civil liability is the liability that arises under existing rules that are not specifically designed to compensate for environmental damage. This theory bases liability on the idea of fault as an essential element without which liability cannot exist. It is primarily concerned with the behaviour of the responsible person, and we cannot conceive of liability without fault, whether intentional or unintentional²⁷.

However, as a result of industrial progress and the increasing problems faced by society, especially the problem of environmental damage, the theory of fault has been undermined. There is therefore an urgent need to find new legal rules to ensure effective protection of the environment and of those affected by environmentally harmful activities. This can be found in the polluter pays principle as the basis for civil liability based solely on the theory of environmental damage²⁸, which will be the focus of our research in this requirement.

The first branch: The inadequacy of traditional civil liability to compensate for environmental damage

First: Establishment of environmental civil liability based on the theory of fault

Established fault is the basis for all cases in which personal tort liability arises from a personal act. Established fault is fault whose existence is beyond doubt and which the injured party must prove. In environmental civil liability, fault is established when there is a breach of the legal obligations set out in environmental legislation or a breach of the general duty not to harm others²⁹. This means that environmental civil liability does not arise from the mere occurrence of the harmful event itself, but requires a breach of the duty of vigilance and care revealed by that event. This means that the event must be attributed to a legally defective behaviour, i.e. the idea of fault. All of this is the responsibility of the injured party, who must prove, with convincing evidence that is admissible in court, that the behaviour of the owner of the harmful activity was defective and unlawful.

The French judiciary has applied the theory of established fault on many occasions in the field of environmental damage, and has established the civil liability of the owner of an industrial plant for the gases emitted by it, which led to the death of neighbouring plants, on the basis of established fault³⁰.



This theory has been established for a considerable period of time and has not been confined to the domestic sphere, but has extended to the international sphere, where jurisprudence in the early twentieth century found its desired solution in the liability of the State, imposing civil liability on it on the basis of the text of Article 3 of the Draft Articles on the Responsibility of States for Internationally Wrongful Acts, prepared by the International Law Commission, which provides: “The State is responsible when there is a clear degree of State fault attributable to the acts or omissions of officials responsible for the application of the law”³¹.

Despite the stabilisation of this theory and its adoption for a period of time within the framework of civil liability, it has become an inadequate idea to provide adequate protection to those affected in many areas of human activity, especially environmental ones. As a result, in many cases there has been a gradual lack of justice in the law, due to the inability of the victims to prove the fault of those who caused the damage, which in turn has affected the judiciary, which in many cases has been helpless to compensate the victims³².

Second: Difficulties in adopting the fault theory as a basis for liability for environmental damage

The reason why this theory is insufficient to provide legal protection to the victims is due to the following three difficulties:

The first difficulty: The occurrence of pollution damage from legitimate activities: Pollution damage does not in all cases arise from the commission of wrongful acts or torts or violations of applicable environmental laws. On the contrary, in most cases they arise from legitimate activities whose operators have obtained prior authorisation from the competent administrative authority and have complied with the requirements of the applicable laws, without any unlawful act or deviation from the usual conduct³³.

The second difficulty: The impossibility of proving the fault of the owner of the polluting activity: Proving the fault of the polluter is not easy in all cases. It may be difficult or even impossible for the victim to prove the existence of fault on the part of the polluter. As a result, the victim is left alone to bear the damage caused by the pollution³⁴.

The doctrine attributes the inability of the victim to prove such fault to the following five reasons:

1. The victim is often far from the polluting activity and has no connection with it, and it is difficult for him to know whether the necessary measures and precautions have been taken to prevent or mitigate the damage.
2. The lack of modern technological methods to detect the negligence of the owner of the polluting activity.
3. The financial limitations of the persons affected by the pollution, since the determination of the polluter's fault may require the assistance of technical experts, the cost of which they cannot afford³⁵.
4. The special nature of environmental damage is an obstacle to proving fault, as environmental damage does not appear immediately after the pollution incident, but is often delayed and discovered only after a long period of time.
5. When pollution damage is shared by several activities or persons, the fault is shared by all of them, making it impossible to identify the guilty party³⁶.

The third difficulty: The possibility for the perpetrator of the harmful activity to escape liability:

The perpetrator of the harmful activity can discharge the environmental civil liability based on the established fault by proving the absence of fault on his part. This is done by providing evidence of the measures and precautions required by the environmental legislation and by proving their diligence according to the standard of a prudent person. They can also exonerate themselves from liability by proving the absence of fault on their part by proving that the environmental damage that has affected others or the environment itself is due to an external cause beyond their control, such as force majeure, an unforeseeable accident, the fault of a third party or the fault of the injured party³⁷.

The second branch:

The Polluter Pays Principle as a Modern Objective Basis for Compensation of Environmental Damage



After the fault-based theory proved inadequate to achieve environmental civil liability and to provide effective protection for those harmed by activities, the attention of jurisprudence, legislation and the judiciary turned to the theory of civil liability based on compensation for damage, even without fault, to the victims of environmental pollution. This is considered to be the most appropriate modern means and the most suitable basis for achieving environmental civil liability³⁸. The latter varies according to the nature and diversity of the environmental damage, but objective liability seems to be more in line with the developments of modern technologies, which have led legal thinking and jurisprudence to search for bases more suited to these serious damages. However, the inadequacy of objective liability alone to cover damage or new sources of pollution has led to the emergence of the polluter pays principle, which coincides with the idea of sustainable development, which requires economic development to be achieved without depleting environmental resources³⁹.

The unique nature of environmental pollution makes it difficult to establish a direct causal link between the behaviour of the polluter and the damage suffered by the victim. Consequently, compensation for environmental damage is based on the principle of strict liability, which underpins the “polluter pays” principle⁴⁰. The civil liability regime under this principle responds to the concerns raised by increasing risks, as the legal scholar “Dubois” argues that the “polluter pays” principle is a new application of strict liability in a different form and shape from traditional strict liability. This principle has broadened the scope of its application and the range of its objectives, embodying the pillars of sustainable development⁴¹.

The “polluter pays” principle as a basis for civil liability makes every polluter responsible for the resulting damage.

This principle is considered to be the common result of all bases, as it is based on considerations of justice and fairness. It is not appropriate for the polluter to benefit from an activity without being obliged to bear the consequences of that activity and any resulting damage.

It is not appropriate for the polluter to derive a profitable benefit from an activity without being obliged to bear the consequences of that activity and any resulting damage⁴².

While civil liability under traditional rules arises only as a result of a court judgment after the dispute has been brought before the competent judicial authority, the situation is different when we are dealing with civil liability based on the polluter pays principle. In this case, the obligation to pay compensation arises automatically and directly, irrespective of the legality or illegality of the act⁴³. The obligation to pay compensation under the “polluter pays” principle starts with the commencement of the activity and extends beyond it if damage occurs. It is sufficient for the implementation of this principle that the competent administrative bodies take on this task and that the compensation is not in all cases paid directly to the victim, as in the case of traditional liability, but is usually paid to other bodies, such as the public administration in charge of the collection⁴⁴.

The “polluter pays” principle is a tool for pollution insurance, as it recognises the automatic compensation of victims through the advance payment system, which is more flexible in dealing with incidents with high environmental risks⁴⁵.

Conclusion:

The Polluter Pays Principle aims to achieve the concept of sustainable development based on a balance between the needs of development and the needs of environmental protection. It plays an important role in covering the aspect of civil environmental liability and providing compensation for any environmental damage, as it is a new approach to ensuring compensation and repairing such damage, which the theory of fault has failed to compensate for most damage, especially environmental damage, due to the great difficulties faced by this theory. This has necessitated the adoption of the theory of strict environmental liability through the application of the polluter pays principle, as it is compatible and in harmony with the nature and specificity of environmental damage, because it overcomes all the difficulties of proving fault, as it does not require the occurrence of fault at all. It does not look for fault, but for the party responsible for the environmental damage.

The main findings:



- Advances in science and technology, together with the various risks and damages associated with them, have demonstrated the inadequacy of the fault-based theory to provide adequate protection for those affected by environmentally harmful activities. Most of these activities are initially lawful and no fault has been committed, yet serious environmental damage still occurs despite the exercise of more than the necessary care to prevent it.
- The “polluter pays” principle, as the basis for objective environmental liability, is based on a different legal concept from that underlying the fault-based theory. It does not require the existence of fault, which is considered to be the greatest obstacle in environmental disputes, but it is sufficient that the damage has occurred, even if no fault has been committed.
- The contribution of the “polluter pays” principle to reducing the rate of pollution through a system of imposing financial costs and compensation on the party responsible for the environmental damage.
- The “polluter pays” principle takes the form of an economic mechanism for environmental protection.
- The contribution of the “polluter pays” principle to the development of civil liability rules in terms of compensation for environmental damage characterised by specific features such as invisibility, delayed effects and difficulty in identifying the source.
- To consider the “polluter pays” principle as the basis for civil liability in environmental matters and as a new and broad application of objective liability.
- The essence of objective liability is the search for the party responsible for the damage, not the party responsible for the fault.
- Relying solely on objective liability cannot cover all environmental damage and this is where the role of the polluter pays principle is appreciated.

Proposals:

- The need to put into practice the “polluter pays” principle by determining how to apply paragraph 7 of article 3 of law 03-10 on environmental protection in the context of sustainable development.
- Trying to solve the problem of environmental tax collection through administrative intervention to improve the alternative solution through the effective application of articles 76, 77 and 78 of the aforementioned law.
- Focusing on the environmental awareness of natural and legal persons, since the environment is not subject to financial compensation.
- The lack of effective implementation of the “polluter pays” principle, as it does not adequately remedy environmental damage in Algerian law, which requires the intervention of the legislator to fill the legal gaps.

Footnotes:

¹- Qassemi Mohamed, The Legal Mechanisms for Protecting the Environment from Industrial Pollution in Algeria, Master’s Thesis in Public Law, Specialisation in Environmental Law, Faculty of Law and Political Science, University of Sétif, 2016, p. 50.

²- Ashraf Arafat Abu Hijaza, The Polluter Pays Principle, Dar Al-Nahda Al-Arabiya, Cairo, Egypt, 2006, p. 16.

³- Malek Youssef, International Responsibility without Harm - The Case of Environmental Damage, Doctoral Thesis in Public Law, Department of International Law, Faculty of Law and Political Science, Brothers Mentouri University, Constantinople, 2012, p. 91.

⁴- Khentache Abdel Hak, The Scope of Intervention of Decentralised Authorities in the Field of Environmental Protection in Algeria, Master’s thesis, Faculty of Law and Political Science, Qasdi Merbah University, Ouargla, 2011, p. 31.

⁵- Mansour Madjadji, The Polluter Pays Principle - The Economic Meaning and the Legal Concept -, Annals of the University of Algiers 1, No. 01, 2020, p. 152.

⁶- Atoui Widad, Waliche Salah Eddine, The Polluter Pays Principle as an Ex Post Mechanism for Environmental Protection, Journal of the Department of Legal and Political Research and Studies - Laboratory of Constitutional Institutions and Political Systems, Issue 9, June 2020, p. 54.

⁷- See Article 3(7) of Law No. 03/10 on Environmental Protection in the Framework of Sustainable Development.

⁸- Souleimani Mourad, Environmental Protection within the Framework of Sustainable Development between International Mechanisms and Algerian Law, Master’s Thesis, Specialisation in Public Entities and Governance, Faculty of Law and Political Science, Abderrahmane Mira University of Bejaia, 2016, p. 27.

- ⁹- Hamou Farhat, Raouia Matmati, Nouredine Daouas, the polluter pays principle as the basis for environmental civil liability, *Journal of Environmental and Real Estate Law*, Volume 08, Issue 14, 2020, p. 30.
- ¹⁰- Mansour Nacereddine, The General Principles of Environmental Law as Mechanisms to Achieve Human Security in Algerian Legislation, *Journal of the Researcher in Legal and Political Sciences*, Issue 2, University of Mohamed Sharif Messaadia, Souk Ahras, 2019, p. 192.
- ¹¹- Mansour Madjadji, previous reference, p.154.
- ¹²- Ben Chnoufi Fairouz, The Impact of the Polluter Pays Principle on the Development of the Civil Liability System, *Journal of Scientific Research in Environmental Legislation*, Volume 05, Issue 02, 2018, p.427.
- ¹³- Douba Samia, Mohammed Ben Mohammed, Environmental Tax as a Mechanism for Consecrating the Polluter Pays Principle, *Journal of Humanities*, Issue 46, University of Mohamed Khider Biskra, March 2017, p.595.
- ¹⁴- Ahmed Abou El-Wafa, Reflections on the International Protection of the Environment Against Pollution with Reference to Certain Recent Developments, *Egyptian Journal of International Law*, Volume 49, 1993, p.57.
- ¹⁵- Douba Samia, Mohammed Ben Mohammed, cited above, p.595.
- ¹⁶- Mohammed Bouaât, The Effectiveness of the International Responsibility System in Protecting the Environment Against Pollution, *Journal of the Academy of Social and Humanistic Studies*, Hassiba Ben Bouali University of Chlef, issue 15, January 2016, p.173.
- ¹⁷- Mansour Megguenni, previous reference, p.156.
- ¹⁸- Mohammed Bouaatt, previous reference, p.174.
- ¹⁹- Mansour Megguenni, *supra*, p. 156.
- ²⁰- Ben Guerdi Amin, The polluter pays principle and the positions of the French legislator and the Algerian legislator, *Journal of In-Depth Legal Research*, issue 2, April 2016, p.115.
- ²¹- The 17th French Minister of the Environment, Michelbarnier, who took part in the discussions to enrich the draft of this law, which lasted more than ninety hours.
- ²²- Raphael Roui, *Environmental Law and Administration*, 3rd edition, Monchrestien, 1999, p. 98.
- ²³- Mansour Nacer El-Din, cited above, p. 193.
- ²⁴- See Article 92 of Law No. 19-14 containing the Finance Law for the year 2020.
- ²⁵- See Article 84 of Law No. 19-14 containing the Finance Law for the Year 2020.
- ²⁶- Hamida Jamila, *The Legal System of Environmental Damage and Compensation Mechanisms*, Al-Khalduniya Publishing and Distribution House, Algeria, 2011, p. 196.
- ²⁷- Ahmed Abdel-Karim Salama, *Environmental Protection Law, Combating Pollution and Developing Natural Resources*, Dar Al-Nahda Al-Arabiya, Cairo, Egypt, 2003, p. 271.
- ²⁸- Malik Jaber Hamidi Al-Khazaei, Hussam Ubaydis Awda, Determining the Appropriate Legal Basis for the Civil Environmental Liability of Oil and Gas Refining Companies, *AL-Qadisiya Journal*, Volume 09, Issue 02, 2018, p. 9.
- ²⁹- Chaima Saad Majid, *Civil Liability of Media Institutions*, Master's thesis submitted to the College of Law, University of Karbala, 2015, p. 110.
- ³⁰- Malik Jaber Hamidi Al-Khazaei, Hussam Ubaydis Awda, previous reference, p. 3.
- ³¹- Moussa Mohammad Misbah, *The Legal Basis for International Responsibility for Environmental Damage*, *Journal of Shariah and Law*, Issue 31, Faculty of Shariah and Law, Africa International University, Sudan, 2018, p. 329.
- ³²- Atta Saad Mohammad Hawwas, *Civil Liability for Environmental Pollution Damages within the Neighbourhood*, New University House, Alexandria, 2011, p. 189.
- ³³- Malik Jabir Hamid al-Khouzai. Houcem abisi seouda, The aforementioned reference, p. 4.
- ³⁴- moussa Mohammad Misbah, The Previous Reference, p. 331.
- ³⁵- Malik Jabir hamidi al-Khouzai, houcem Abis seouda, The aforementioned reference, p. 5.
- ³⁶- Qazi Thani Isra, Dalal Yazid, Civil Liability for the Natural Environment before the Judiciary, *Journal of Ijtihad for Legal and Economic Studies*, Volume 9, Issue 01, 2020, p. 820.
- ³⁷- Khalid Moustafa Fahmi, *The Legal Aspects of Protecting the Environment from Pollution in Light of National Legislation and International Conventions*, First Edition, University Thought House, Alexandria, 2011, pp. 179 and 182.
- ³⁸- Khalid Moustafa Fahmi, *The Legal Aspects of Protecting the Environment from Pollution*, University Thought House, First Edition, Alexandria, Egypt, 2011, p. 399.
- ³⁹- chaima saad Majid, The aforementioned reference, p. 100.
- ⁴⁰- Ibn Khalidi al-Saadi, *The Law of Classified Establishments for Environmental Protection in Algeria*, Master's Thesis in Public Business Law, Faculty of Law and Political Science, Abderrahmane Mira University, Bejaia, 2012, p. 111.
- ⁴¹- Daas Nour el-Din, *The Polluter Pays Principle in International Environmental Law*, Master's Thesis, Specialisation in Environmental Law, Faculty of Law and Political Science, Mohamed Lamine Debaghine University, Sétif, 2016, p. 93.

⁴²- Bugge, Hans Chrisitan, The polluter pays principle: dilemmas of justice in national and international contexts, in Jonas Ebbesson & Phoebe Okowa (eds) *Environmental Law and Justice in Context*, 2008, p. 420.

⁴³- Ibn chenouf Fairouz, The aforementioned reference, p. 441.

⁴⁴- Hamida Jamila, The aforementioned reference, p. 200.

⁴⁵- Ibn chenouf Fairouz, The aforementioned reference, p. 442.

References:

1. Legislation:

- [1] Law No. 10-03 dated 19 Jumada Al-Awwal 1424 corresponding to 19 July 2003, relating to the protection of the environment within the framework of sustainable development.
- [2] Law No. 19-14 of 14 Rabi' Al-Awwal 1441 corresponding to 11 December 2019, which includes the Finance Law for the year 2020.

2. Books:

- [1] Ahmed Abdel Karim Salama, *Environmental Protection Law, Combating Pollution and Developing Natural Resources*, Dar Al-Nahda Al-Arabiya, Cairo, Egypt, 2003.
- [2] Ashraf Arafat Abu Hejjaza, *The Polluter Pays Principle*, Dar Al-Nahda Al-Arabiya, Cairo, Egypt, 2006.
- [3] Khaled Moustafa Fahmy, *The Legal Aspects of Environmental Protection from Pollution in Light of National Legislation and International Conventions*, First Edition, Dar Al-Fikr Al-Jami'i, Alexandria, 2011.
- [4] Khaled Moustafa Fahmy, *The Legal Aspects of Environmental Protection from Pollution*, Dar Al-Fikr Al-Jami'i, first edition, Alexandria, Egypt, 2011.
- [5] Ata Saad Mohamed Hawas, *Civil Liability for Environmental Damage in the Neighbourhood*, Dar Al-Jami'a Al-Jadida, Alexandria, 2011.
- [6] Hamida Jamila, *The Legal System for Environmental Damage and Compensation Mechanisms*, Dar Al-Khalduniya for Publishing and Distribution, Algeria, 2011.
- [7] Raphael roui, *Environmental Law and Administration*, 3rd edition, Montchrestien, 1999.
- [8] Bugge, Hans Chrisitan, The polluter pays principle: dilemmas of justice in national and international contexts, in Jonas Ebbesson & Phoebe Okowa (eds) *Environmental Law and Justice in Context*, 2008.

Journals:

- [1] Ahmed Abu Al-Wafa, "Reflections on the International Protection of the Environment from Pollution with Reference to Some Recent Developments", *Egyptian Journal of International Law*, Vol. 49, 1993.
- [2] Mohamed Bouaatt, "Effectiveness of the International Responsibility System in Protecting the Environment from Pollution", *Journal of the Academy of Social and Human Studies*, Hassiba Ben Bouali University of Chlef, Issue 15, January 2016.
- [3] Ben Kardi Amin, "The Polluter Pays Principle and the Position of the French and Algerian Legislators", *Journal of Advanced Legal Research*, Issue 2, April 2016.
- [4] Douba Soumia, Mohamed Ben Mohamed, "The Environmental Tax as a Mechanism to Implement the Polluter Pays Principle", *Journal of Human Sciences*, Issue 46, Mohamed Khider University of Biskra, March 2017.
- [5] Moussa Mohamed Mesbah, "The Legal Basis for International Responsibility for Environmental Damage", *Journal of Sharia and Law*, Issue 31, Faculty of Sharia and Law, International University of Africa, Sudan, 2018.



- [6] Malek Jaber Hamidi Al-Khozaie, Hossam Abis Ouda, "Determining the Appropriate Legal Basis for Civil Environmental Responsibility of Oil and Gas Refining Companies," *AL-Qadisiya Journal*, Volume 9, Issue 2, 2018.
- [7] Ben Chenouf Fairouz, "The Impact of the Polluter Pays Principle on the Development of the Civil Liability System", *Journal of Scientific Research in Environmental Legislation*, Vol. 5, Issue 2, 2018.
- [8] Mansour Nacereddine, "General Principles of Environmental Law as Mechanisms for Achieving Human Security in Algerian Legislation," *Journal of Legal and Political Science Researcher*, Issue 2, Mohamed Seddik Ben Yahia University, Souk Ahras, 2019.
- [9] Qazi Thani Israa, Dalal Yazid, "Civil Responsibility for Natural Environment before the Judiciary", *Journal of Ijtihad for Legal and Economic Studies*, Volume 9, Issue 1, 2020.
- [10] Hamo Farhat, Rawiya Matmati, Nour El Din Daas, "The Polluter Pays Principle as a Basis for Civil Environmental Responsibility", *Journal of Environmental and Real Estate Law*, Vol. 8, Issue 14, 2020.
- [11] Mansour Medjadji, "The Polluter Pays Principle - Economic Meaning and Legal Concept", *Annals of the University of Algiers 1*, Issue 1, 2020.
- [12] Atoui Widad, Lawalish Salah Eddine, "The Polluter Pays Principle as a Post-Protection Mechanism for the Environment", *Journal of Legal and Political Research - Laboratory of Constitutional Institutions and Political Systems*, Issue 9, June 2020.

4. Doctoral theses and dissertations:

- [1] Khentas Abdelhak, *The Intervention of Decentralised Authorities in the Protection of the Environment in Algeria*, Master's thesis, Faculty of Law and Political Science, Kasdi Merbah University, Ouargla, 2011.
- [2] Ben Kheladi Essaadi, *The Law of Classified Facilities for Environmental Protection in Algeria*, Master's thesis in Public Economic Law, Faculty of Law and Political Science, Abderrahmane Mira University, Bejaia, 2012.
- [3] Maalem Youcef, *International Liability without Damage - The Case of Environmental Damage - Doctoral thesis submitted for the Doctorate in Public Law, Specialisation in International Law*, Faculty of Law and Political Science, Frères Mentouri University, Constantine, 2012.
- [4] Chaima Saad Majid, *Civil Liability of Media Institutions*, Master's thesis submitted to the Faculty of Law, University of Karbala, 2015.
- [5] Daas Nouredine, *The Polluter Pays Principle in International Environmental Law*, Master's thesis, Environmental Law Specialisation, Faculty of Law and Political Science, Mohamed Lamine Debaghine University, Sétif, 2016.
- [6] Gassemi Mohamed, *The Legal Mechanisms for the Protection of the Environment from Industrial Pollution in Algeria*, Master's Thesis in Public Law, Environmental Law Specialisation, Faculty of Law and Political Science, University of Sétif, 2016.
- [7] Souleimani Mourad, *Environmental Protection in the Framework of Sustainable Development between International Mechanisms and Algerian Law*, Master's Thesis, Public Entities and Governance Specialisation, Faculty of Law and Political Science, Abderrahmane Mira University, Bejaia, 2016.