

ENVIRONMENTAL SECURITY IN ALGERIA - BETWEEN LEGISLATIVE REQUIREMENTS AND ENVIRONMENTAL REALITY DEMANDS

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Received: 02/2025

Published: 03/2025

Abstract:

In recent years, there has been increased interest in two important aspects of human life, the first of which is the development and the necessities of economic and living life, which requires serious efforts to advance the state towards progress and prosperity, and the second is preserving the environment and the impact of development on it and public health and the rights of future generations. Through this approach, the importance of environmental security appears as an influence in protecting individuals, keeping pace with development requirements, and limiting the spread of emerging epidemics.

Accordingly, we will try through this research paper to clarify the legislative development of the concept of environmental security in Algeria, as well as the mechanisms and efforts of the legislator in achieving it.

Keywords: *Environmental security, environment, Algerian legislation, environmental reality.*

INTRODUCTION:

The best introduction to this research paper is the words of Allah from the Holy Quran, as Allah the Almighty says in the meaning of the Holy Verse: “Corruption has appeared on land and sea because of what the hands of people have earned, so that He may let them taste some of what they have done that perhaps they will return” and grant him peace: “If ; and from the instructions of the Prophet Muhammad, may Allah bless him ¹ the Hour comes while one of you has a seedling in his hand, then if he can plant it before he gets up, then let him plant it”; and he also said: “Allah the Almighty is good and loves goodness, clean and loves cleanliness, generous and loves generosity, and munificent and loves munificence, so clean your courtyards”.²

Human behavior is considered one of the important factors affecting the environment, whether by polluting it or preserving it, therefore, the state must stipulate in its national legislation to control this behavior, with its means and powers, and since the subject of the environment is a broad subject, it includes several social, legal, economic, and cultural aspects.

Researchers have dealt with it in their way; some have dealt with the environment in general, and others have dealt with it in a specific field, therefore, through this research paper, we will try to address the subject of environmental security, which is at the forefront of the concerns of societies of all kinds, advanced and backward, as it is the essential factor that preserves human existence and grants a decent life to the individual -in all ages and times- following the nature on which we were created, which is the instinct of survival and defense. For this reason, the requirements for achieving environmental security have witnessed a remarkable development, and its methods have diversified with the diversity of means that humans have reached, as well as the topics that they have been interested in throughout the ages.

Environmental problems and threats constitute a security concern that has affected human life, due to the pursuit of achieving his goals and ambitions in a short time, without taking into account the results and consequences that may cause serious harm to the environment, and contribute to the spread of epidemics and diseases, as the environment is closely linked to human security, as its issues have been included within the fields of security, which has given it a new dimension that has made it a security axis in state issues, as this relationship between the requirements of legislation from legal texts on the one hand, and the demands

¹ Surah Al-Rum, verse 41.

² Majed Ragheb Al-Helou, Environmental Protection Law in Light of Sharia, University Publications House, Faculty of Law, Alexandria University, Egypt, 1999, p. 31.



of environmental reality on the other hand, and the challenges and problems of encroachment on the environment, is highlighted.

The exacerbation of pollutants on the environment due to industrial progress and the spread of epidemics has been a reason for changing the value of the environment, as it was previously a source of comfort and enjoyment of its resources, and has turned into a source of epidemics and diseases due to the corruption that has affected its natural elements, and aware of these risks, each country within its sovereignty has issued legislation and laws to protect the environment and combat pollution and the spread of epidemics.

On this basis, our problem came as follows: How can the Algerian legislator achieve environmental security in the absence of regulatory texts related to the Environmental Protection Law?

To answer this problem, we have divided this research paper into two sections:

- Section One: Legislative development of the concept of environmental security in Algeria.
- Second Section: Mechanisms and efforts of the legislator in achieving environmental security.

The first section: The legislative development of the concept of environmental security in Algeria

First: The legislative development of environmental security in Algerian constitutions

The environmental issue was not mentioned in the 1963³ constitution, and it was referred to in the 1976 Charter in Chapter Seven, under the title "Combating Pollution and Protecting the Environment", where the necessity of preserving the environment and protecting the health of the population from harm was emphasized, and local communities and the country's economic, social and cultural institutions were forced to play a primary role in implementing the policy of combating pollution and protecting the environment, which is a policy that should constitute the concern of all citizens and should not be understood as the responsibility of the state alone⁴.

The 1986 Charter addressed the environment in the same manner in Chapter Five on urban planning and the development of basic facilities, noting that this Charter also stipulated the necessity of improving the living environment, and that it was intended to build socialism at the expense of protecting the environment⁵, while the Constitution of 1976 made environmental protection one of the jurisdictions of the National People's Assembly in the field of legislation, it reserved for legislation the broad outlines of the policy of regional and environmental planning, protection of the animal and plant wealth, and preservation of the cultural and historical heritage, as well as the general system of forests and the general system of water⁶.

After the constitutional and ideological amendment, we did not find any change in the level of the ambition of the constitutional founder in the 1989 Constitution, as we find that he also assigned to the National People's Assembly the powers to determine the general rules of the environment and the framework of living, including the protection of animal and plant wealth, the preservation of the cultural and historical heritage, the working system of forests, pasture lands, and the working system of water⁷. The same approach was followed by the 1996 Constitution, which stated in its preamble: "The people, fortified by their deep-rooted spiritual values, preserving their traditions of solidarity and justice, and enriched in their ability to contribute effectively to cultural, social, and economic progress in the world of today and tomorrow."

The legislator wanted to preserve future generations as is the case for current generations, and that preservation in all aspects undoubtedly includes the environment, even if the wording is not explicit in this area, and the constitutional founder considered the general rules related to the environment, the framework

³- Constitution of 1963 dated September 10, 1963, Official Gazette No. 64 dated September 10, 1963.

⁴ Order No. 57-76 dated July 5, 1976, publishing the National Charter of 1976, Official Gazette No. 61 dated July 30, 1976, p. 966.

⁵ Presidential Decree No. 22-86 dated February 9, 1986. publishing the National Charter of 1986, Official Gazette No. 7 dated February 16, 1986, p. 250.

⁶- Order No. 97-76 dated November 22, 1976, promulgating the Constitution of the People's Democratic Republic of Algeria of 1976, Official Gazette No. 94 dated November 24, 1976.

⁷- Presidential Decree dated February 28, 1989, including the publication of the constitutional amendment, Official Gazette No. 09, dated March 1, 1989.



of living and urban planning, the general rules related to the protection of animal wealth, the protection and preservation of cultural and historical heritage, the operating system for forests and pasture lands, and the operating system for mines and fuels as areas reserved for legislation⁸.

However, the constitutional legislator in the latest constitutional amendment⁹ addressed the issue of environmental deterioration and the negative consequences of climate change in explicit terms, and devoted an entire paragraph to it in its preamble, emphasizing its keenness on the necessity of providing environmental security in the present and for future generations. The same constitutional amendment also confirms in Article 64 that: "The citizen has the right to a healthy environment within the framework of sustainable development, and the law defines the duties of natural and legal persons to protect the environment".

Second: Legislative development of environmental security through legal texts

The legislator's interest in the environment was early after the restoration of sovereignty, as evidenced by the issuance of several environmental legislations. After independence, the state's interest in protecting the environment was confirmed by adopting the agricultural revolution policy¹⁰, with a focus on plant protection by issuing the grazing law¹¹, and adopting the principle of specialization in establishing the National Environment Council as an advisory body in the field of environmental protection¹², as the Law No. 03-83 dated February 5, 1983, related to environmental protection, is considered the first law to address environmental issues from a comprehensive perspective¹³. Law 1983 referred the detailed issues related to its application to a broad organization¹⁴, and the delay in issuing the old environmental law can be explained by the recent development of legislation in most countries of the world. In the USA, the National Environmental Law was issued in 1969, and in France, the Nature Protection Law was issued in 1976, while the Japanese legislator issued the Environmental Law in 1970, and the Canadian legislator did not initiate it until 1971¹⁵; In

⁸- Presidential Decree 438-96, dated December 7, 1996, including the publication of the constitutional amendment, Official Gazette No. 76, dated December 8, 1996.

⁹- Presidential Decree No. 20-442, dated December 30, 2020, including the constitutional amendment of 2020.

¹⁰- Order No. 71-73, dated November 8, 1971, including the agricultural revolution, Official Gazette No. 97, dated November 30, 1971, repealed by Law 90-25, dated November 18, 1990, including the land orientation, Official Gazette No. 49, dated November 18, 1990.

¹¹ Order No. 75-43, dated June 17, 1975, containing the Grazing Law, Official Gazette No. 54, dated July 8, 1975

¹² -Decree No. 156-74, including the establishment of a National Environment Committee, Official Gazette No. 59, dated July 23, 1974, and repealed by Decree No. 77-119, dated August 15, 1977, including the termination of the activities of the National Environment Committee, Official Gazette No. 21, 1977.

¹³- Article 1 of the old Environmental Protection Law defined its objectives as protecting natural resources, restructuring them and adding value to them, preventing and combating all forms of pollution and damage, and finally improving the living environment and its quality.

¹⁴ We mention among them:

-Decree No. 457-83, dated June 23, 1983, establishing the National Agency for Environmental Protection, Official Gazette No. 31, dated July 26, 1983, repealed by Executive Decree 107-95, dated April 12, 1995, defining the organization of the General Directorate of the Environment, Official Gazette No. 23, dated April 26, 1995, and repealed by Executive Decree No. 09-01, dated January 7, 2001, organizing the central administration in the Ministry of Territorial Planning and Environment.

-Decree No. 458-83 of July 23, 1983, setting the model basic law for national parks, Official Gazette No. 31 of July 26, 1983, amended by Executive Decree No. 216-98 of June 24, 1998, Official Gazette No. 46 of June 24, 1998.

-Decree No. 509-83 of August 20, 1983, relating to protected non-domesticated animal species, Official Gazette No. 35 of August 23, 1983.

-Decree No. 378-84 of December 15, 1984, setting the conditions for cleaning, collecting and treating urban solid waste, Official Gazette No. 66 of December 16, 1984.

-Decree No. 13-85 of January 26, 1985, setting the conditions for the use of beaches, Official Gazette No. 05, dated January 27, 1985.

- Decree No. 14-85 of January 26, 1985, setting the conditions for the allocation and exploitation of camping sites, Official Gazette No. 05, dated January 27, 1985, amended by Executive Decree No. 138-01, dated May 26, 2001 Official Gazette No. 30, dated May 27, 2001.

¹⁵- Abd Alwahab Rajab Hicham bin Sadiq, Environmental Pollution, King Saud University, Scientific Publishing and Printing, Kingdom of Saudi Arabia, 1997, p. 116



the context of achieving the objectives of environmental protection in the aspect related to protecting the living environment of the population, the law related to protecting and promoting health was issued, and work was done to allocate the urban dimension in the law related to urban planning¹⁶.

In the early nineties, municipal¹⁷ and state¹⁸ laws were issued, in which the legislator emphasized the competence of local communities in economic, social, and cultural development work, as well as the regional authority, and the protection and promotion of the environment, with many provisions that focus in general on protecting the environment as a necessity to take the necessary measures to combat epidemics, and in keeping with approved international summits and declarations, the Algerian legislator issued Law No. 10-03, which includes environmental protection within the framework of sustainable development¹⁹, which can be said to be an extension of what was approved in the Johannesburg Declaration in 2002²⁰. The new environmental law included 114 legal articles, Article 02 of which defined the objectives of this law, namely:

- Determining the basic principles and rules for environmental management.
- Promoting sustainable national development by improving living conditions and ensuring a healthy living environment.
- Preventing all forms of pollution and damage to the environment by ensuring the preservation of its components.
- Rehabilitating damaged environments.
- Promoting the rational ecological use of natural resources, as well as the use of cleaner technologies.
- Strengthening information, awareness of public participation, and various stakeholders in environmental protection measures.

The legislator also stipulated in Article 03 of Law No. 10-03 the principles on which the new environmental law is based, which are eight principles as follows:

- **The principle of preserving biological diversity:** This means prohibiting any activity that harms biological diversity, as this principle is an extension of what was approved by the Convention on Biological Diversity; Biological or living diversity is broader than the difference in animal species such as mammals and birds..., because this was included in the Washington Convention held years ago, rather, it has come to mean diversity in the same organism, but from a microscopic point of view, as it relates to determining the diversity and difference between genes within the same species²¹.
- **The principle of non-degradation of natural resources:** which avoids harming natural resources, such as water, air, land, and its subsoil, which are considered in all cases an integral part of the development process, and should not be taken in isolation in achieving sustainable development.
- **The principle of substitution:** This principle means replacing an environmentally damaging action with another that is less dangerous to it, and this latter activity is chosen even if its cost is high, as long as it is appropriate to the environmental values being protected.
- **The principle of integration:** integrating arrangements related to environmental protection and sustainable development when preparing and implementing sectoral plans and programs.

¹⁶ - Decree No. 03-87 related to urban planning, Official Gazette, No. 05, dated November 27, 1987, repealed by Law No. 20-01 dated December 12, 2001, related to regional planning and sustainable development, Official Gazette No. 77 dated December 15, 2001.

¹⁷ - Law No. 08-90 containing the Municipal Law, Official Gazette, No. 15, dated April 11, 1990. 19

¹⁸ - Law No. 09-90 containing the Wilaya Law, Official Gazette, No. 15, dated April 11, 1990. 1

¹⁹ - Law No. 10-03 of July 19, 2003 relating to environmental protection within the framework of sustainable development, Official Gazette No. 43 of July 20, 2003.

²⁰ Kiss Alexandre: "International Environmental Law", Pedone, 1989, p.18 and following. and see the file environment and development, the challenge of the 21st century, alternatives, economic, July August 2002.

²¹ Khenich Senoussi, The Strategic Dimensions of International and Regional Environmental Protection Management, A Critical and Authentic Study According to the Perspective of Developing Countries, an article published in the Journal of Law and Human Sciences, Issue 01, University Center Ziane Achour in Djelfa, 2008, p. 22.



- **The principle of preventive activity and correcting environmental damage with priority at the source:** This is done by using the best available technologies and at an acceptable economic cost, and every person whose activity may cause significant damage to the environment must take into account the interests of others before acting.
- **The precautionary principle:** According to which the lack of technology - given current scientific and technical knowledge - should not be a reason for delays in taking actual and proportionate measures to prevent the risk of serious damage to the environment, and this should be at an acceptable economic cost.
- **The polluter pays principle:** This means that every person whose activity causes or could cause damage to the environment should bear the costs of all preventive measures, reduce them, and restore places and their original environment to their original state.
- **The principle of information and participation:** According to this principle, every person has the right to be informed about the state of the environment and to participate in prior procedures when making decisions that may affect the environment.

The legislator defined some of the terms and what is meant by them, such as (protected area, natural space, geographical range, etc.), then the legislator addressed in the second chapter the tools for managing the environment in the text of Article 5, which are:

- Environmental Media Authority.
- Determining environmental standards.
- Planning environmental activities.
- System for assessing the environmental impacts of development projects.
- Determining the special legal systems and regulatory bodies.
- The intervention of individuals and associations in the field of environmental protection²².

In the third chapter, the legislator addressed the requirements of protection, which are biological diversity, air and water, aquatic environments, land and subsoil, desert environments, and the living environment²³.

In the fourth chapter, the legislator addressed protection from damages and dealt with the requirements of protection from chemical materials, then the requirements of protection from auditory damages, while the fifth chapter included transitional provisions, and finally the sixth chapter entitled penal provisions.

In addition to the above, we find that every year the Finance Law is issued, which includes provisions related to the environment, which indicates the legislator's keenness to keep pace with the requirements of modernization and the problems it produces, especially environmental ones.

Section Two: Mechanisms and Efforts of the Legislator in Achieving Environmental Security

Algeria suffers from many environmental problems, and after the completion of environmental management in 2001, Algeria adopted an environmental strategy by enacting laws within the framework of environmental protection, in addition to the economic measures adopted and implemented by the state, without forgetting the environmental projects working to improve the environmental situation in Algeria.

First: Legislative efforts to protect the environment:

There are a set of laws related to protecting the ecological and environmental framework, including:

1- The law related to environmental protection within the framework of sustainable development: It was ratified in July 2003, where the Algerian legislator adopted the transverse lines of the principles of sustainable development of the Rio de Janeiro Summit²⁴, which stipulated the determination of control for

²² - For more details on these tools, see Articles 6 to 68 of Law No. 10-03 on the protection of the environment within the framework of sustainable development.

²³ -Articles 69 to 75 of the same law.

²⁴- Presidential Decree 95-163 of June 6, 1995, ratifying the Convention on Biological Diversity, signed in Rio de Janeiro, on June 5, 1992.



various environmental compounds by setting limits in the form of critical thresholds, and goals for the quality of natural resources, in addition to the obligation to appoint an operator representing the environment, while ensuring the application of self-control and supervision, and generalizing the integration of the environment within all levels of education, and finally enacting incentive measures in the customs tax aspect about bringing in equipment used to reduce pollution; Among the most important characteristics of this law, we find:

- It is an administrative law, as it places powers and privileges under the control of the state administration to achieve public benefit, and it is the branch of law most closely connected to combating environmental pollution, where the administrative control authority is considered the most important means on which administrative law relies, and it works to establish legal protection for the environment - The administrative nature of the Environmental Protection Law means that all the various legislations aim to protect the environment, most of which deal with administrative procedures, including licenses, orders, prohibitions, obligations, and declarations -.

- It is a multi-disciplinary law, as it is connected to several fields and everything related to human life as protection in general, from all dangers and protecting his health in particular, so that the scope expands to include the environment in which he lives, and accordingly, the association of the environment with all fields of health, economy, and culture made the legal rules seek to protect it²⁵.

- Its rules are characterized by modernity, as the first signs of interest in protecting the environment appeared with the wave of industrialization that settled in Europe at the beginning of the 19th century, and accordingly, environmental issues and its protection from pollution through laws appeared as a reaction to the industrial and technological developments that developed countries in particular experienced, while in Algeria, the first environmental law was known in 1983 as the basic rule for the legislative and regulatory system related to environmental protection.

2- The law on waste management, monitoring, and removal²⁶: It was ratified in December 2001, and this law stipulated the inevitability of waste production and prevention, and the valuation of this waste by reusing or recycling it in any way that ensures its reuse in the form of energy or materials, as it does not pose a danger to the environment and human health, and it also stipulated the necessity of informing and sensitizing citizens about the dangers resulting from waste and its effects on health and the environment, and how to avoid and prevent it, and this law embodies the principle of producer responsibility for the waste it leaves behind.

3- The law on air quality and air protection: This law revolves around three main features, including prevention and supervision, information, preparation of planning tools and arrangement of technical, financial, regulatory and punitive collection procedures, as it stipulates the necessity for public authorities to monitor air quality at the level of large gatherings (more than 50 thousand residents), relying on a set of planning tools that include the Regional Air Quality Plan RAQP, the air protection plan PPA, and the Urban Mobility Plan UMP, in addition to other laws that all aim to preserve and promote the environment in Algeria, and contribute to the process of environmental control, where these laws are considered a source of its sources, and these bodies derive their authority from these laws²⁷.

4- The law on the protection and enhancement of the coast: Law 02-02 of February 5, 2002, relating to the protection and enhancement of the coast, defines the basic principles of coastal protection, and sets the general rules relating to the protection and enhancement of the coast while respecting the nature of its coastal areas, and prevents the depletion of the natural resources of the beaches such as beach sand, and also prevents population expansions and buildings to be built on the coasts.

5- The law on regional planning and sustainable development: Law 01-20, dated December 12, 2001, on regional planning and sustainable development, aims to develop the interior, mountainous, and less populated desert areas, and to relieve pressure on coastal areas and major centers. It also supports the

²⁵ - Mohamed Ghribi, Environmental Control in Algeria, Master's Thesis, University of Algiers 1, Algeria, 2015, p. 65.

²⁶- Law 01-19 of 12/12/2001 on waste management, monitoring and removal.



rational use and preservation of natural resources, ensuring the right of future generations to these resources; this law also created nine regions, namely:

North-Central Regional Planning and Development Region, North-East Regional Planning and Development Region, North-West Regional Planning and Development Region, Central High Plateaus Regional Planning and Development Region, East High Plateaus Regional Planning and Development Region, West High Plateaus Regional Planning and Development Region, South-West Regional Planning and Development Region, South-East Regional Planning and Development Region, Greater South Region Planning and Development Region.

6- Law No. 11-10 of June 22, 2011, relating to the municipality: This new law replaced the old law (repealed No. 90-08 of April 7, 1990, relating to the municipality), and included a provision on environmental protection through Article 31, which stipulated that the responsibility for managing household waste lies with the Health, Hygiene and Environmental Protection Committee, in addition to the municipality's responsibility to ensure compliance with the legislation and regulations in force relating to the preservation of public health and hygiene, as Chapter Three of this law addressed the municipality's public facilities that meet citizens' needs in the field of environmental protection, and the concession contracts that the municipality can conclude with private individuals in the field of maintaining hygiene, where this concession is subject to a standard specifications booklet determined by the regulations.

7- Law No. 12-07 of February 21, 2012, relating to the state: This new law, in the aspects related to environmental protection, addressed the establishment of state public services, whose main mission is to ensure public cleanliness, in addition, the state's public services, if they are unable to directly exploit these services, may conclude concession contracts with private individuals in the field of waste management and maintaining public cleanliness, with the authorization of the state's People's Assembly according to the rules and procedures in force.

Second: Administrative bodies and their role in protecting the environment in Algeria

To embody the objectives of environmental protection, it was necessary for the public authorities to think about creating administrative and institutional bodies that assume responsibility for protecting the environment, within the framework of the foundations and principles of the Framework Law for Environmental Protection No. 03-10, and through this it is necessary to embody these administrative institutions in reality at all levels of administrative organization in Algeria, from the central interests, which is the ministry in charge of the environment, to other ministries directly related to the environment, or advisory institutions, and at the decentralized level, through the interests present in the state of environmental directorates and inspectorates, and state committees responsible for the environment and public health, in addition to the administrative bodies at the local level for municipalities, through environmental delegates and offices of cleanliness and public health, and offices for managing household waste.

In this area, we will discuss the most important administrative bodies in the field of environmental protection in Algeria.

1- Ministry of Environment:

The Ministry of Environment in Algeria has undergone major changes, whether at the level of structure or the name of the ministry, or even its merger with other ministries, where these changes in the structure of the ministry were characterized by different organizations, from the State Secretariat and General Directorates of the Environment, which led to instability that caused the deterioration of the field of environmental protection in Algeria, until the name of this ministry became specific in the "Ministry of Regional Planning and Environment", and this name was not stable until the name became "Ministry of Environment" in the last ministerial amendment of 2021, as an independent and independent ministry without being attached to other ministries, which consists of a group of directorates that include sub-directorates; According to Executive

²⁷ Mohamed Ghribi, *op. cit.*, p. 80.



Decree²⁸ No. 20-357, regarding the definition of the powers of the Minister of Environment, the responsibility of this ministry lies with the minister, where his duties were defined in this executive decree.

2- Decentralized interests of the state:

These interests are represented by the provincial directorates and regional inspectorates for environmental protection.

A- Environmental directorates at the provincial (state) level: The jurisdiction of the environmental directorates of the provinces (states) in the field of environmental protection came through Executive Decree No. 03-494, dated December 17, 2003, which amends and supplements Executive Decree No. 96-60, dated January 27, 1996, which includes the establishment of an environmental inspectorate in the province (state), as well as the joint ministerial decision including the organization of environmental directorates for the provinces, which aims to organize these directorates, and in the field of its work, each provincial environmental directorate includes a group of interests, the most important of which are:

- Urban environmental service.
- Industrial environmental service.
- Environmental awareness, information, and education services.

To embody the tasks of the Environment Directorate, these bodies work on the policy of preserving the environment within the framework of sustainable development, through the prevention and reduction of waste production, monitoring the implementation of laws and regulations related to environmental protection, as well as carrying out awareness and sensitization activities in coordination with other sectors concerned with environmental protection.

B. Regional Environmental Inspectorates: These are external services affiliated with the state that operate at the local level, and their main function is to monitor and implement laws and regulations related to environmental protection. In this context, these inspectorates are responsible for communicating with other bodies (state and municipality), and implementing environmental protection programs throughout the country, and they also issue licenses and visas following legislation in the field of environmental protection. In addition, the regional inspectorates, in coordination with other state bodies, take measures aimed at preventing all forms of environmental degradation and combating pollution and waste.

3- Other public bodies responsible for environmental protection:

A- National Observatory for the Environment and Sustainable Development²⁹: The tasks of this body focus on establishing and managing monitoring networks, measuring pollution and monitoring natural environments, collecting environmental information and data from national bodies and specialized agencies, and it is also entrusted with the task of disseminating environmental information, where this observatory has three 3 regional laboratories for analysis in each of Algiers, Constantine, and Oran, and seven 7 stations for monitoring the environment, as well as four 4 coastal laboratories, and four 4 networks for monitoring air quality.

B. National Environmental Training Authority: This body was established in August 2002 in the form of a public institution of an industrial and commercial nature, its tasks are training, assistance, consultation, and information for all economic actors related to the environment in the field of environmental training and improving the skills of administrators in institutions, administrations and local communities, promoting environmental education and developing awareness-raising work on the need to protect the environment.

C. National Waste Agency³⁰: This agency was established by Executive Decree No. 02-175 establishing, organizing, and operating the National Waste Agency. According to this decree, this agency is a public

²⁸- Executive Decree No. 20-357, dated 11/30/2020, defining the powers of the Minister of Environment.

²⁹ - Executive Decree 02-115, dated April 3, 2002, establishing the National Observatory for the Environment and Sustainable Development, Official Gazette No. 22/2002.

³⁰ - Executive Decree 02-175 of May 20, 2002, defining the powers of the National Waste Agency - its formation and how it operates, Official Gazette No. 37/2002



institution of an industrial and commercial nature that enjoys legal personality and financial independence, under the supervision of the Minister of the Environment; The tasks of the National Waste Agency focus on developing waste sorting, collection, treatment, valuation, and removal activities, providing assistance to local communities in the field of waste management, processing data and information related to waste, and creating and updating a national information bank on waste.

D. National Institute for Environmental Training: This institute was established by Executive Decree No. 02-263, and is a public institution of an industrial and commercial nature with a legal personality and financial independence, under the supervision of the Minister in charge of the Environment and Territorial Planning, the objectives of establishing this institute include activating environmental education and contributing to specialized environmental training to raise the level of qualification of the interests concerned with environmental protection at the level of local communities, from members of elected councils, heads of committees, and environmental offices responsible for environmental protection, in addition to the environmental police and all those related to environmental protection.

E. National Center for the Development of Biological Resources: The tasks of this center lie in inventorying animals, plants, and ecosystems at the central level, and contributing to the preparation of a plan for the valuation of biological resources within the framework of sustainable development, as well as the valuation of the national biological heritage³¹.

F. National Center for Cleaner Production Technologies: This center was created to determine the amount of pollution and contribute to the qualification and promotion of cleaner production technology concepts, in addition to accompanying industrial establishments in their efforts to obtain the ISO mark, and providing advice to public authorities on the policies to be followed to develop clean technologies.

G. National Council for Planning and Sustainable Development of the Territory: It is an advisory body whose mission is to coordinate between sectors and harmonize the work of planning the territory, and to ensure the development of tools for planning the territory and to evaluate its condition, this council includes all actors in the field of planning the territory from public institutions, local elected officials, civil society, and qualified personalities to protect the environment³².

H. National Coastal Conservation³³: The tasks of the National Coastal Conservation include protecting and enhancing the coast, coastal areas, and the environmental systems that embrace coastal areas, conducting studies for the benefit of coastal states and municipalities, and preserving natural balances.

I. The National Agency for Climate Change³⁴: It is a tool for implementing national policy in the field of climate change and its impact on economic and social development. Its scope of work includes monitoring climate development and supporting the relevant sectors to ensure the security of the population, by integrating climate change into sustainable development plans and contributing to the protection of the atmospheric environment, in addition to preparing and analyzing the Algerian position during international negotiations on climate change and preparing with the relevant sectors in the field of climate change, it is also entrusted with the task of identifying operational tools for clean development mechanisms at the national level.

Third: Financial efforts to protect the environment in Algeria

The strategy adopted in Algeria within the framework of environmental protection was based on a set of tools, namely:

³¹- Mohamed Ghribi, *op. cit.*, p. 90.

³²-Executive Decree No. 94-465 dated December 25, 1994, establishing a Higher Council for Sustainable Development, defining its powers, organization and work, Official Gazette No. 01/1995.

³³- Executive Decree 04-113, dated April 13, 2004, establishing the governorate, its management and its tasks, Official Gazette No. 25, issued on April 21, 2004.

³⁴- Presidential Decree No. 93-99 of 06/06/1993, ratifying the United Nations Framework Convention on Climate Change, approved by the United Nations General Assembly on May 9, 1992.



1. Environmental fees (tax): Interest in environmental fees began in 1992 within the Finance Law, as environmental taxation is one of the most important means of public authority working to reduce the effects of pollution, and is an essential complement to the mechanism of environmental administrative control, it is known as one of the national policies aimed at correcting deficiencies by setting a price, fee, or pollution tax, and environmental taxation is expressed by green taxes or ecological taxes, which are mandatory cash deductions paid to the public treasury without obtaining a special fee, as they are mandatory and non-compensated, and their proceeds go to the budget, and are imposed on violators of the legislative provisions related to environmental protection, and are called green fines, and their purpose is not to provide a financial resource to be used to protect the environment, but rather to deter violators of the provisions of environmental legislation³⁵, however, environmental taxation is experiencing a severe slowness in its implementation on the ground, as this slowness or laxity is evident first in establishing and completing the legal framework for environmental taxation.

Environmental legislation began in the 1980s³⁶, but the financial means to implement the latter did not start until the 1990s, specifically in 1992, as we mentioned earlier, this was evident in the establishment of the first fee on activities that pollute or are dangerous to the environment, and that was at modest prices that did not reflect the true cost of pollution.

These prices for environmental fees were not revised until 2000, and this review did not enter into force until two years later, that is, with the issuance of the ministerial circular in 2002, as well as the table that regulates the multiplier factor for some fees that must be determined by regulation, which was issued after that date, as for other fees, although they are legally established, they are still merely a desire for the future, as the desire exists but the application on the ground is postponed and delayed, and the executive texts have not specified many points in the field of environmental fees, which are still vague, and thus there is a possibility that the public authorities will forget or neglect to issue these regulatory texts, and thus environmental interests will remain paralyzed³⁷.

2. Government spending: These are the financial resources allocated mainly to measures to combat pollution and protect natural resources. They come from the state and include programs for the construction of sanitation networks and purification stations, the program for forest renewal, land reclamation and integrated reclamation of steppes, the program for anti-pollution equipment acquired by major public projects in the energy and industry sectors, expenses related to waste collection and disposal, public health expenses related to the environment, and expenses for the management of major agencies.

The state, within the framework of the new environmental policy orientations, provides significant financial revenues, which it places at the disposal of local communities, to achieve sustainable development, then allocates certain percentages of the proceeds of some ecological fees resulting from the application of the polluter pays principle for the benefit of municipalities in general, in addition, financial subsidies are allocated from the fees and levies imposed for special funds created for the protection and preservation of the environment.

These subsidies and aids are within the framework of the second part of the application of the polluter pays principle, which means that whoever preserves the environment benefits from financial aid and support, in addition to facilities. Therefore, the legislator established several treasury accounts, the purpose of which is to establish financial mechanisms capable of addressing the environmental issue, whether directly or indirectly, but all of them are provided by special means of financing such as environmental fees³⁸. These revenues generated by ecological fees are allocated within the framework of subsidies and aids that go to people who preserve the environment in the form of financial support and facilities in all areas, including

³⁵Ben Ahmed Abdel Moneim, *Legal and Administrative Means for Environmental Protection in Algeria*, a thesis for a doctorate in public law, Ben Youssef Ben Khedda University, Faculty of Law, Ben Aknoun, Algeria, academic year 2008-2009, pp. 103-104.

³⁶ Law No. 03-83, related to environmental protection - repealed.

³⁷ Ben Mansour Abdel Karim, *Ecological taxation for environmental protection in Algeria*, a thesis for a master's degree in law, Mouloud Memri University - Tizi Ouzou, Algeria, 2009, p. 105.

³⁸ REDDAF Ahmed, "The fiscal approach to environmental problems", *op.cit.*, p151.



customs facilities. In addition, flexibility must be adopted in applying the polluter pays principle, given the economic situation of the institution subject to the fees imposed to protect the environment, therefore, subsidies and aids were adopted, as it is necessary to adopt flexibility in applying the polluter pays principle in both aspects.

A. Subsidies and Aid: Subsidies and aid are a modern method compared to fees, which we discussed previously, where aid and facilities are entrusted to people who preserve the environment, as a reward for their interest in environmental issues, and taking environmental considerations into account when establishing investment projects. Therefore, these subsidies, aid, and facilities also aim to protect the environment by assisting institutions and establishments that take the initiative to protect the environment³⁹, through fees imposed on the latter, where the proceeds of these fees go to special funds in various fields, then these incomes are redistributed to projects and establishments that serve and preserve the environment; these subsidies include subsidies for special funds or accounts, in addition to financial aid and customs and administrative facilities.

- **The National Environment and Pollution Elimination Fund:** This fund was created under Article 189 of Law No. 91-25 containing the Finance Law for the year 1992, and it has a special allocation account No. 065-302.

- **National Fund for Integrated Water Resources Management:** This fund was established under Article 197 of Decree No. 95-27 containing the Finance Law for the year 1996, followed by Executive Decree No. 206-96, which came to determine the methods of managing the Special Allocation Account No. 302-086.

- **National Fund for Urban Planning:** This fund was established according to the provisions of Article 145 of Decree No. 94-03, dated December 31, 1994, containing the Finance Law for the year 1995, followed by Executive Decree No. 95-178, dated June 24, 1995, to determine the methods of managing the Special Allocation Account No. 302-081.

- **The Fund for Combating Desertification and the Development of the Pastoral and Steppe Economy:** This fund was established by Executive Decree No. 02-248, dated July 23, 2002.

- **The National Fund for the Protection of the Coast and Coastal Areas:** This fund, which has a special allocation account No. 302-113, was established by Executive Decree No. 04-273, which determined the methods of operating this account.

B. Aid and facilities: The Algerian legislator adopted this modern method by giving flexibility to the implementation of plans, master plans, and development plans, especially in areas that must be developed by concluding development contracts, in which the state and/or local groups, operators and economic partners participate, where the development contract means an agreement in which the state and a group/or several regional groups or an operator or several operators or an economic partner or partners participate to carry out work and programs determined based on master plans and development plans for a specific period, these agreements are considered simple statements, but despite their optional or reciprocal nature, this method has achieved important and effective results as they are consistent with the nature of the economic phenomenon, which is characterized by flexibility.

By adopting the rewards method, public authorities encourage polluters to reduce the effects of pollution, by giving them a reward for each degree of pollution they determine, which they control, and this method can lead to the creation of a chain of polluting institutions, to collect these rewards⁴⁰.

Therefore, rewards must continue to be paid to polluting institutions, that close their doors or change their location, because the environment is a public good and natural resource, that society must preserve, so spending an amount or reward on polluting activities is nothing but suggestions and solutions to reduce the phenomenon of pollution⁴¹.

³⁹ Wanas Yahya, Local Selection Guide for Environmental Protection, Gharb House for Publishing and Distribution, Algeria, 2003, p. 370.

⁴⁰ -REDDAF Ahmed, «L'approche fiscale des problèmes de l'environnement », op.cit., p 153.

⁴¹ Wanas Yahya, Crystallization of Sustainable Development through the Algerian Experience, Journal of Legal and Administrative Sciences, Issue 1, Algeria, 2003, p. 78.



This method also depends on providing facilities for classified institutions or establishments, through a rough estimate of the value of the annual income of these institutions, allocated to financing environmental protection measures and procedures; these facilities take two forms⁴²:

- Either in the form of total exemptions from taxes imposed on the institution that takes positive measures in the field of environmental protection.
- Either in the form of a partial reduction of the tax, where the relevant public authority can take measures to reduce or omit the taxes imposed on the institution⁴³, either through a judicial or a state-mandated method.

These facilities were evident in various fields that are remote or close to the environment in general, as we find that Order 03-01 related to investment development included facilities and incentives for institutions, whether private or public, whether national or foreign, and this is what is stipulated in Article 4 of Order 03-01⁴⁴, where investments are made in complete freedom, taking into account the legislation and regulations related to regulated activities and environmental protection, where these investments benefit by force of law from the protection and guarantees stipulated in the laws and regulations in force.

3. Support reduction policy: Adopting this policy by encouraging the rationalization and economy of natural resources⁴⁵, by approaching the real price of the resource, so the policy is a price adjuster, and if this policy is combined with the sectoral policy, it is possible to rationalize energy consumption and reduce polluting emissions into the sea, and control the consumption of water, fertilizers and pesticides in agriculture⁴⁶.

CONCLUSION:

Since it ratified many international agreements, Algeria has been keen to provide environmental protection to achieve the well-being of its citizens, following the requirements of sustainable development, and has adapted its national laws in line with its international obligations, to suppress any aggression on the environment in which members of society live.

A review of the legal texts regulating the environment clearly shows the state's interest in providing environmental security. Since the beginning of the millennium, the environmental organization has been working to implement the United Nations Declaration of September 2000 for development to protect the environment in most of the countries that ratified it, as it was necessary for the Algerian government to enact Law No. 03-10 dated July 19, 2003, related to environmental protection within the framework of sustainable development.

Establishing environmental legislative standards that allow for overcoming challenges to limit the spread of epidemics is difficult, if not almost impossible, given the specificity of dealing with these issues from a legal perspective. Evidenced by the fact that despite the huge arsenal of legal texts at the level of national and international legislation, the environmental reality remains unchanged. In our opinion, to achieve the desired environmental security and limit the spread of epidemics, it is imperative to create institutions dedicated to predicting epidemics and studying possibilities at all levels.

Looking at the issue from all sides, we find that most individuals and institutions still ignore the environmental factor and the possibility of the spread of epidemics in their investment operations, where environmental protection laws are considered insufficient as they do not resonate in reality, as we find hundreds of tons of untreated toxic waste in the environmental space, especially asbestos, insecticides, and other toxic materials used during the production stages.

⁴² REDDAF Ahmed, The fiscal approach to environmental problems, op.cit., p 152.

⁴³ Wanas Yahya, The Local Representative's Guide to Environmental Protection, op.cit., p. 348.

⁴⁴ Order No. 03-01, dated August 20, 2001, relating to investment development, Official Gazette No. 47, issued on August 22, 2001.

⁴⁵ Decree No. 82-440 of December 1, 1982, ratifying the African Convention on the Conservation of Nature and Natural Resources, signed on September 15, 1968 in Algiers.

⁴⁶ Sharaf Ibrahim, The Environment in Algeria from an Economic Perspective in Light of the Ten-Year Strategic Framework 2001-2011, Journal of the Researcher, Issue 12, Algeria, 2013, p. 101.



In this regard, we believe that the solution lies in doubling and increasing the points of communication between administrations and citizens, with local communities bearing part of the responsibility, by implementing the laws, as the administration is considered the main body that can closely follow what is happening in the environment, and this also falls within its legal authority and powers, as an example of this, the new Coronavirus "Covid 19", which has tangibly affected the environment and climate, and in several aspects.

In short, the quality of environmental legislation and its familiarity with all aspects of the subject can positively reflect on the problems raised by the spread and transmission of epidemics, because controlling the terminology of the legal text and taking the necessary measures at the appropriate time, and here we are talking about the proactive development of the text through the predictive feature that we suggested earlier, can give a strong impetus to limiting the spread of epidemics, if it is translated correctly into reality.

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