

Rules for Combating Environmental Crimes in Algerian Law Larbi hadjer ⁽¹⁾

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Abstract: Human activities have increasingly exploited the environment to meet growing needs, leading to rising environmental pollution and serious risks to human life. The environment—comprising water, air, and soil—forms the foundation of life, and any imbalance in these elements disrupts ecological stability. Irresponsible practices have caused significant environmental damage, some of which is difficult to reverse.

In response, legislation serves as a key tool for regulating activities and protecting the environment by defining prohibited acts that harm natural resources and biodiversity. Environmental crime has thus emerged as an important legal issue. This study examines whether criminal law directly intervenes, through explicit legal provisions, to protect the environment.

key words:

Environmental Pollution , Environmental Crimes ,Environmental Protection, Criminal Law , Legal Framewor.

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introduction:

In recent decades, human activities have undergone significant expansion and diversification in pursuit of meeting various economic and social needs. This development has, however, resulted in serious environmental repercussions, most notably the escalation of environmental pollution in its various forms. The environment constitutes the fundamental framework within which human life exists, encompassing essential elements such as water, air, and soil—indispensable components for the continuity of life on Earth. Nevertheless, the excessive and irrational exploitation of these elements has disrupted the ecological balance, rendering environmental protection an urgent necessity that calls for effective legal intervention.

The importance of this topic lies in addressing one of the most pressing contemporary global issues, namely the protection of the environment from human-induced harm, particularly in light of the increasing prevalence and severity of environmental crimes and their detrimental impact on human health and ecological stability. Furthermore, this study highlights the critical role of criminal law in deterring environmentally harmful conduct through the criminalization of such acts and the imposition of appropriate sanctions, thereby ensuring a balance between development requirements and environmental preservation.

Accordingly, this study seeks to address the following main research question:

To what extent does criminal law provide direct and effective protection for the environment through explicit legal provisions? And what is the significance of incorporating environmental criminalization within the framework of criminal law?

To address this issue, the study adopts the descriptive-analytical method, through which key concepts related to the environment and environmental crime are examined, alongside an analysis of the relevant legal texts, with a focus on the role of criminal law in safeguarding environmental components.

Rules for Combating Environmental Crimes in Algerian Law ———

As for the general structure of the study, it is divided as follows:

Section I: The conceptual framework of environmental crime and legal protection of the environment.

Section II: The role of criminal law in environmental protection and the mechanisms of criminalization and punishment.

Section I: The conceptual framework of environmental crime and legal protection of the environment

Most criminal legislations do not provide a precise definition of the concept of crime in general, nor of environmental crime in particular¹. Instead, they are generally limited to identifying its constituent elements, namely the legal element, the material element, and the moral element, and to classifying crimes according to their gravity into felonies, misdemeanors, and infractions. This approach is also adopted by the Algerian legislator².

In this section, we will examine the constituent elements of environmental crime, followed by its classifications and the sanctions resulting therefrom.

A) subtitle: The Constituent Elements of Environmental Crime

Environmental crime, like other types of crimes despite its particular specificity requires the presence of three essential elements in order to enable the prosecution of its perpetrators and to establish their criminal liability.

¹ Some legal scholars have defined environmental crime as: "A breach of a legal obligation to protect the environment, thereby constituting an unlawful infringement upon it, in violation of regulatory rules that prohibit such conduct and prescribe the penalties applicable thereto."

² **Ibtisam Saeed Al-Malkawi**, *The Crime of Environmental Pollution*, First Edition, Dar Al-Thaqafa for Publishing and Distribution, Amman, 2009, p. 88.

One: The Legal Element of Environmental Crime

This element refers to the existence of a legal provision that defines the act as a crime and prescribes a penalty for it¹. This reflects one of the fundamental principles of criminal law, namely the principle of legality of crimes and punishments, which requires that the criminal provision criminalizing environmental harm be formulated in a clear and precise manner. Such clarity facilitates the task of the criminal judge in promptly identifying the nature of the offense and the applicable sanction, thereby ensuring greater effectiveness in its application².

It is also observed that the Algerian legislator's adoption of the precautionary principle, which requires the prior criminal protection of the environment even before the occurrence of environmental damage and despite the absence of an explicit criminal provision, leads to an expansion of the concept of the principle of legality in this field. This is particularly evident in cases where there is a mere likelihood of risk, and even when environmental harm occurs—often of a continuing nature—which may result in environmental criminal provisions enacted at a later stage being applied retroactively. This is intended, on the one hand, to suppress attacks against the environment and, on the other hand, to prevent offenders from escaping criminal liability.

However, this approach affects an essential principle of criminal law. Therefore, its application should be limited to environmental crimes, particularly those of a serious nature.

Two: The Material Element of the Environmental Crime

The material element is the external manifestation of the crime through which the violation of the legally protected interest is

¹ **Abdallah Souleiman**, *Explanation of the Algerian Penal Code*, Office of University Publications (OPU), Algeria, Ben Aknoun, 6th edition, 2005, p. 68.

² **Luqman Bamoun**, *Criminal Liability of Legal Persons for the Crime of Environmental Pollution*, Master's Thesis, University of Kasdi Merbah, Ouargla, 2010, p. 45.

Rules for Combating Environmental Crimes in Algerian Law ———

realized. It is through this element that the acts constituting the execution of the crime take place. Criminal law does not punish mere thoughts or motives; rather, it requires that these intentions and factors be expressed in the form of a tangible act, which constitutes the criminal act¹.

Thus, the material element is considered the most important component of an environmental crime, which is characterized by the relative weakness of its mental element. The regulatory nature of environmental legal provisions makes mere failure to comply with them a crime in itself. These may take the form of environmental crimes of omission, or, in some cases, environmental crimes based on the resulting harm.

First: Environmental Crimes by Failure to Comply with Regulatory Provisions

Regulatory provisions occupy the largest portion of environmental legislation and are considered an effective tool for addressing environmental delinquency through the bodies responsible for their enforcement. Violating these regulations constitutes environmental crimes. These are formal environmental crimes committed through omission, or they may result from conduct in which the offender deliberately refrains from complying with such regulations; in this case, they are positive environmental crimes committed by omission².

A/ Formal Environmental Crimes:

In this type of crime, the criminal conduct consists of failing to comply with administrative or civil obligations, as well as technical and regulatory provisions—such as the absence of a required permit or engaging in activities that do not conform to established regulations.

¹ Samir Alia, *Explanation of the Penal Code*, University Institution for Studies, Publishing and Distribution, 1998, p. 199.

² Samir Alia, *Ibid*, p. 200.

Regardless of whether environmental harm actually occurs, these are considered formal crimes that do not require a resulting consequence¹.

The criminalization of such conduct serves a preventive purpose, allowing for the protection of the environment before damage occurs, or at least mitigating its effects. However, this may also pose a challenge for legal practitioners in understanding these offenses, as they are essentially scientific in nature but presented in a legal framework, given that the limits not to be exceeded are often technical standards that may be difficult to comprehend.

B/ Positive Environmental Crimes by Omission:

While formal crimes occur simply through the failure to comply with the technical standards set out in environmental regulations, positive environmental crimes by omission arise from a negative conduct on the part of the offender, consisting of a violation of the applicable environmental regulatory framework.

On this basis, a positive environmental crime by omission exists when the applicable environmental provision is not complied with, regardless of whether a harmful result actually occurs. For example, the emission of gases from a factory in quantities exceeding the permitted limits—due to the failure to install filtration equipment—constitutes a positive crime by omission. In contrast, merely failing to install filtration equipment in accordance with legally prescribed specifications constitutes a formal crime of omission, even if no polluting gas emissions actually occur².

Second: Result-Based Environmental Crimes

Unlike crimes of omission, result-based environmental crimes only occur when there is a material infringement on one of the environmental domains, whether directly or indirectly. The most

¹ Nour El-Dine Hachema, *Criminal Protection of the Environment: A Comparative Study between Islamic Jurisprudence and Positive Law*, Master's Thesis, University of Batna, 2005, p. 63.

² Nour El-Dine Hachema, *Ibid*, p. 65.

Rules for Combating Environmental Crimes in Algerian Law ———

prominent field for this type of crime is the physical harm inflicted on animal and plant resources, as well as marine resources.

It is also required for the establishment of an environmental crime that there be a causal link between the offending act and the environmental damage. The existence of this causal relationship is essential in order to hold the offender liable for their actions¹.

Three: The Mental Element of Environmental Crime

The mental element expresses the guilty intent of the offender through which they violate the legal norm established by the criminal legislator to protect interests of significant value to society and individuals². However, most environmental provisions do not explicitly refer to this element, which makes most environmental crimes material in nature. In such cases, courts infer the mental element from the material conduct itself.

The public prosecution is often satisfied with proving the legal and material elements of the crime, which leads to the establishment of the accused's liability. The rule of not requiring proof of criminal fault has thus been extended from contraventions—of which there are many in the environmental field—to include certain environmental misdemeanors.

B) subtitle: Classification of Environmental Crimes and the Prescribed Penalties

Environmental crimes are divided into felonies, misdemeanors, and contraventions. These crimes are found scattered across various branches of law, including the Penal Code, the law on waste management, control and removal, as well as maritime law³.

¹ Ibid,p.67.

² Muntasir Saeed Hamouda, *Political Crime*, University Thought House, Alexandria, 2008, p. 21.

³ Ali Saidane, *Protection of the Environment from Pollution by Radioactive and Chemical Substances*, Algeria, 2008, p. 321.

One: Environmental Felonies

Through this section, we will attempt to highlight the most important environmental felonies under various laws.

Environmental felonies under the Penal Code: Article 87 bis of the Algerian Penal Code provides that: “Any terrorist or sabotage act aimed at attacking the environment, or introducing or releasing toxic substances into the air, the subsoil, or discharging them into territorial waters, thereby causing danger to the environment and affecting human and animal health,” shall be punished by death.

Article 396 of the Algerian Penal Code also criminalizes the intentional setting of fires in forests, cultivated fields, and the cutting of trees as a felony.

Environmental felonies under the Waste Management, Control and Disposal Law: Article 66 of Law No. 01/19 on waste management provides that: “Shall be punished with imprisonment from five to eight years and a fine ranging from one million to five million Algerian dinars, or with either of these penalties, any person who imports, exports, or transits hazardous special waste in violation of the provisions of this law. In case of recidivism, the penalty shall be doubled.”

Environmental felonies under the Maritime Law: Article 500 of the Maritime Code states that: “Any master of an Algerian or foreign vessel who intentionally discharges radioactive waste into waters under national jurisdiction shall be punished by death.”

Two: Environmental Misdemeanors

Environmental misdemeanors create several difficulties, as previously mentioned, due to the large number of legislative texts, whether national or international, particularly through conventions dedicated to environmental protection. For this reason, the Algerian legislator has classified environmental misdemeanors into three types:

Rules for Combating Environmental Crimes in Algerian Law ———

Air-related environmental misdemeanors:

The legislator considers as a misdemeanor any pollution affecting the atmosphere due to gaseous emissions, smoke, or solid, liquid, or toxic particles that are likely to harm public health and safety, or to damage plants, animal production, or agricultural output¹.

Air pollution is often caused by the activities of economic enterprises; therefore, it is necessary for them to be subject to prior administrative authorization. Such permits set the maximum permissible emission levels and the necessary preventive measures.

Marine environmental crimes:

It is difficult to enumerate all environmental crimes related to the sea and water, as it is often challenging to determine the source of such pollution, given that it is renewable and evolving in nature. Water-related environmental offenses are addressed in the Maritime Code (Article 495), the Environmental Protection Law within the framework of sustainable development, and the Water Law².

Land-related environmental crimes:

The Algerian legislator has penalized any form of assault or harm affecting biodiversity, as well as terrestrial environments, protected areas, and forest zones, under the Forestry Law, the Hunting Law, and the Environmental Law³.

For example, Article 92 of the Hunting Law punishes anyone who hunts, captures, transports, sells, purchases, or preserves protected species.

¹ Lotfi Mourad, *The Material Element of Environmental Crime and the Problems of Its Application*, Master's Thesis, Sétif, 2015, p. 42.

² Law No. 05-12 relating to water, Official Journal No. 60, dated September 4, 2005.

³ People's Democratic Republic of Algeria. *Law No. 03-10 of 19 July 2003 relating to environmental protection within the framework of sustainable development*. Official Gazette No. 43, 2003, pp. 6–25.

Three: Environmental Contraventions

Among the legal provisions formulated in the form of environmental contraventions is Article 84 of Law No. 03-10 relating to environmental protection within the framework of sustainable development, which states: “Shall be punished with a fine ranging from 5,000 DA to 15,000 DA any person who violates the provisions of Article 47 of this law and causes air pollution.”¹

Article 94 of Law No. 04-07 relating to hunting provides that: “Any person who, during the hunting season, transports a number of animals exceeding the authorized daily hunting limit shall be punished with a fine ranging from 2,000 DA to 10,000 DA for each animal.”

Section II: The role of criminal law in environmental protection and the mechanisms of criminalization and punishment.

The increasing deterioration of the environment and the growing awareness of its importance have led the legislator to strengthen legal mechanisms aimed at ensuring its protection, particularly through criminal law. In this context, criminal prosecution of environmental crimes represents a key instrument for enforcing environmental legislation and ensuring compliance with its provisions².

This section focuses on the procedures and mechanisms through which environmental offenses are pursued before judicial authorities, starting from the detection of the crime and identification of its perpetrators, through investigation and prosecution, and ending with judicial adjudication and the enforcement of penalties. It also highlights the role of specialized authorities and the challenges associated with proving environmental crimes, given their technical and often complex nature.

¹ Pople's Democratic Republic of Algeria, *Law No. 04-07 of 14 August 2004 relating to hunting*, Official Gazette No. 51, 18 August 2004, p. 15, Article 94.

² Hamidi, Nadia. “Environmental Crimes and Criminal Responsibility in Algerian Law.” *Journal of Legal Research* (Algeria), 2020, pp. 112–130.

Rules for Combating Environmental Crimes in Algerian Law ———

Thus, criminal prosecution in environmental matters constitutes an essential guarantee for the effectiveness of environmental protection policies and for achieving deterrence against violations affecting natural resources and public health.

A) subtitle: Authorities Empowered to Initiate Public Prosecution

The Public Prosecutor is responsible for initiating and conducting public prosecution on behalf of society¹. However, the legislator has introduced an exception to this principle by allowing other entities to initiate public prosecution, in line with the mixed system adopted in criminal procedure law.

Accordingly, any person harmed by an environmentally harmful activity has the right to initiate proceedings. Nevertheless, the most significant entity granted the authority to initiate public prosecution outside the Public Prosecutor, under Environmental Law No. 03/10, is environmental associations. This recognition enhances the credibility and effectiveness of criminal proceedings in environmental matters.

First: The Public Prosecution in Environmental Crimes

The Public Prosecution is considered a key actor in addressing environmental delinquency, as it represents the authority responsible for prosecuting offenders on behalf of society². This is done after receiving official reports documenting environmental violations or upon a complaint filed against the offender. The Public Prosecution retains discretionary power in initiating or discontinuing criminal proceedings.

It exercises broad powers regarding public action, as it is exclusively responsible for conducting it, even when it has been initiated by other parties.

¹ Article 29 of Ordinance NO6-155 was published in the **Official Journal of the Algerian Republic, No. 48, dated June 8, 1966.**

²Zouaimia, Rachid. *Criminal Protection of the Environment in Algerian Legislation*. Algiers: Dar Houma, 2018, pp. 85–110.

larbi hadjer

However, the Public Prosecution can only effectively perform its role in prosecuting environmental offenders if the following considerations are taken into account¹:

Coordination and continuous consultation between the Public Prosecution and various administrative bodies responsible for detecting environmental crimes. At times, members of the prosecution may lack sufficient knowledge of specialized environmental legislation, particularly regulatory texts. For instance, the law may require specific administrative procedures and conditions for carrying out activities that could harm the environment. Due to lack of awareness, the Public Prosecution may order the case to be dismissed, mistakenly assuming the absence of the material element of the offense.

Capacity-building of Public Prosecutors, especially in the fields of economic and environmental crime, through training programs aimed at familiarizing them with various environmental laws and regulatory provisions. These rules are often published only within the administrative authorities responsible for their implementation.

Second: Associations in Monitoring Environmental Crimes

In addition to the Public Prosecution, the law has granted associations the right to initiate public action by allowing them to establish themselves as civil parties in prosecuting environmental offenders. However, despite the efforts made by environmental associations, their role remains limited for several reasons, including insufficient financial resources and a lack of available means. Moreover, the Algerian judiciary still appears hesitant in dealing with these legal entities, unlike its French counterpart².

The legislator affirmed this effective role of associations in Law No. 03/10 by expanding their competencies and enabling their intervention in all areas related to environmental protection. This contributes to

¹ Bousqui'a, Ahsan. *The Concise Guide to General Criminal Law*. Algiers: Dar Houma, 2021, pp. 120–135.

² Mahmoud Saleh Al-Adly, *Encyclopedia of Environmental Protection*, Part One, First Edition, Dar Al-Fikr Al-Jami'i, p. 66.

highlighting the expected role of these associations in safeguarding the environment and improving the quality of life.

B) subtitle: Measures Applied to Protect the Environment

The measures provided for in environmental criminal law vary in order to address environmental delinquency. The modern approach of the Algerian legislator tends to strengthen penalties in the field of environmental crimes. However, the methods of dealing with the criminal danger posed by environmental offenders differ in light of the provisions of the Penal Code and environmental criminal law in particular. At times, the Algerian legislator favors punishment as a means of deterrence, while at other times, it resorts to precautionary measures with a preventive objective.

One: Principal Penalties

There are four types of principal penalties provided for by the Algerian legislator: the death penalty, imprisonment, detention, and fines. These penalties reflect the seriousness of the offender and the type of environmental crime committed, whether it is classified as a felony, misdemeanor, or contravention.

1. The Death Penalty:

Despite the significant controversy surrounding this penalty, it can be said that it reflects the extreme dangerousness of the offender, whose rehabilitation is deemed unlikely. It is considered the most severe form of punishment¹.

In practice, however, the death penalty is rare in Algerian environmental legislation due to its gravity. While environmental protection laws aim to safeguard fundamental human rights, including the right to life, criminal legislation also upholds this right. An example in this field is found in maritime law, where the Algerian legislator punishes with the death penalty the captain of an Algerian or

¹ Pousqui'a, Ahsan. *The Concise Guide to General Criminal Law*. Algiers: Dar Houma Publishing, 2021, pp. 250–275.

larbi hadjer

foreign vessel who deliberately dumps radioactive waste into waters under Algerian jurisdiction.

2. Imprisonment:

Imprisonment is a penalty that restricts personal liberty and is prescribed for crimes classified as felonies. It takes two forms: life imprisonment and fixed-term imprisonment.

Among the legal provisions referring to fixed-term imprisonment is Article 432(2) of the Penal Code, which punishes offenders who expose, offer for sale, or sell spoiled food or medical products with imprisonment ranging from ten (10) to twenty (20) years, if such substances cause an incurable illness, loss of the use of an organ, or permanent disability.

Furthermore, Article 66 of Law No. 01-19 relating to waste management, control, and disposal provides that: “Any person who imports, exports, or facilitates the transit of hazardous special waste in violation of the provisions of this law shall be punished with imprisonment from five (5) to eight (8) years¹ and a fine ranging from 1,000,000 DZD to 5,000,000 DZD, or with one of these two penalties only.”

3. Detention (Short-Term Imprisonment):

This penalty is applied only in cases involving environmental misdemeanors or contraventions. One of its main characteristics is that it is temporary. It is noteworthy that most penalties for environmental crimes in Algerian legislation related to environmental protection are subject to detention, whether classified as misdemeanors or minor offenses.

(a) Examples of detention under Law No. 03-10 relating to environmental protection within the framework of sustainable development:

¹ouaimia, Rachid, *Criminal Protection of the Environment in Algerian Legislation*, Dar Houma Publishing, Algiers, 2018, pp.

Rules for Combating Environmental Crimes in Algerian Law ———

1. Article 81 provides for imprisonment ranging from ten (10) days to three (3) months for anyone who abandons or mistreats a domestic, tame, or confined animal, whether in public or private, or subjects it to cruelty¹. In the case of repeat offenses, the penalty is doubled².
2. In the context of water and aquatic environment protection, Article 93 stipulates imprisonment from one (1) to five (5) years for any ship captain subject to the provisions of the International Convention for the Prevention of Pollution of the Sea by Oil, concluded in London on May 12, 1954, who violates provisions prohibiting the discharge or mixing of oil into the sea. In the case of recidivism, the penalty is doubled.
3. **With regard to classified installations:** Article 102 of the same law provides for a penalty of one (1) year of imprisonment for anyone who operates a facility without obtaining authorization from the competent administrative authority.
4. Article 107 provides for a penalty of six (6) months' imprisonment for anyone who obstructs the course of monitoring operations carried out by officials responsible for investigating and recording environmental violations.

(b) Under the Hunting Law:

There are also many examples of detention penalties, including:

1. Article 85 provides for imprisonment from two (2) months to three (3) years for anyone who engages in hunting or any related activity outside the areas and periods specified by law.
2. Any person who attempts to hunt or hunts without a license or authorization, or uses another person's hunting license, shall be punished with imprisonment from two (2) months to six (6)

¹ People's Democratic Republic of Algeria, *Law No. 03-10 of 19 July 2003 relating to environmental protection within the framework of sustainable development*, Official Gazette No. 43, 2003, Article 93.

² People's Democratic Republic of Algeria, *Law No. 03-10 of 19 July 2003 relating to environmental protection within the framework of sustainable development*, Official Gazette of the People's Democratic Republic of Algeria, No. 43, issued on 20 July 2003, pp. 6–25, Article 81.

months. The same penalty applies to anyone who hunts protected species, captures, transports, sells them by peddling, uses, buys, offers them for sale, or engages in their taxidermy.

(c) Under the Forestry Law:

Detention penalties are also found in forestry legislation. Article 75 stipulates that anyone who exploits or transports forest products without a permit shall be punished with imprisonment ranging from ten (10) days to two (2) months¹.

(d) Detention under Law No. 01-19 relating to waste management, control, and disposal:

1. Article 60 provides for imprisonment from two (2) months to one (1) year for anyone who reuses chemical packaging to directly contain food products. In the case of recidivism, the penalty is doubled².
2. It is also punishable by imprisonment from three (3) months to two (2) years for anyone who mixes hazardous special waste with other types of waste. Furthermore, imprisonment from six (6) months to two (2) years is imposed on anyone who delivers or facilitates the delivery of such hazardous waste for treatment to an operator of a facility not authorized to handle this type of waste. In the case of repeat offenses, the penalty is doubled.

(e) Under the new Water Law No. 05-12:

Detention penalties are also provided as follows:

- Any person who obstructs the free flow of surface Water in riverbeds (wadis), thereby affecting the stability of riverbanks and public structures or harming the preservation of silt layers,

¹ Law No. 84-12 of June 23, 1984, relating to forests, Official Gazette, No. 26, pp. 14–15.

² Law No. 01-19 of December 12, 2001, relating to waste management, control, and disposal, Official Gazette, No. 77, pp. 10–11

Rules for Combating Environmental Crimes in Algerian Law ———

shall be punished with imprisonment from two (2) months to six (6) months¹. The penalty is doubled in case of recidivism.

- Any person who discharges or dumps wastewater into wells, springs, public drinking places, wadis, or canals, or places unhealthy substances in water facilities and installations intended for water supply, in a way that may lead to their pollution, shall be punished with imprisonment from one (1) to five (5) years.
- Moreover, the use of water resources without obtaining authorization from the competent administration is punishable by imprisonment from six (6) months to two (2) years².

Fines:

Fines are considered one of the most effective penalties, as most environmental offenders are economic investors who are significantly affected by this type of sanction. Moreover, most environmental crimes result from industrial activities aimed at achieving economic gain; indeed, environmental harm often arises from the excessive pursuit of such interests³.

It is also important to note that the Algerian legislator, through recent environmental laws, has shown clear interest in increasing both the minimum and maximum limits of fines for environmental offenses.

Examples include:

- Article 84 of Law No. 03-10, which punishes anyone causing air pollution with a fine ranging from 5,000 DZD to 15,000 DZD⁴.
- Article 97 of the same law, which imposes a fine from 100,000 DZD to 1,000,000 DZD on any ship captain whose

¹ Law No. 05-12 of August 4, 2005, relating to water, Official Gazette, No. 60, pp. 33–35.

² Law No. 05-12 of August 4, 2005, relating to water, Official Gazette, No. 60, p. 34.

³ Ammar Boudiaf, *Summary of Algerian Environmental Law*, Djoussour Publishing, Algeria, 2017, p. 132

⁴ Law No. 03-10 of July 19, 2003, relating to environmental protection, Official Gazette, No. 43, p. 21.

misconduct, recklessness, negligence, or violation of laws and regulations leads to a maritime accident resulting in the discharge of pollutants into waters under Algerian jurisdiction.

- In the Forestry Law No. 84-12, Article 79 provides for a fine ranging from 1,000 DZD to 3,000 DZD for anyone who clears land without authorization, and from 1,000 DZD to 10,000 DZD per hectare for clearing land within national forest property.
- Under the new Water Law No. 05-12, a fine ranging from 5,000 DZD to 10,000 DZD is imposed on anyone who discovers groundwater—intentionally or accidentally—or is present at such a discovery and fails to report it to the competent water resources authority. The penalty is doubled in case of recidivism.
- A fine ranging from 50,000 DZD to 100,000 DZD is imposed on anyone who undertakes construction, planting, erects fixed fencing, or engages in any activity that harms the maintenance of wadis, lakes, ponds, salt flats, or chotts¹.
- Article 55 of Law No. 01-19 on waste management, control, and disposal provides for a fine ranging from 500 DZD to 5,000 DZD for any individual who dumps or neglects household waste or refuses to use the waste collection and sorting system provided by the competent authorities².

Fines may also be imposed as **additional (supplementary) penalties** alongside imprisonment. For example:

- Article 102 of Law No. 03-10 imposes a fine of 500,000 DZD on anyone operating a facility without a permit, in addition to imprisonment. This fine may reach 1,000,000 DZD if the facility is operated in violation of a judicial order to suspend or close it³.

¹ Law No. 05-12 of August 4, 2005, relating to water, Official Gazette of the Algerian Republic, No. 60, pp. 27–30.

² Law No. 01-19 of December 12, 2001, relating to waste management, control, and disposal, Official Gazette, No. 77, p. 8.

³ Law No. 03-10 of July 19, 2003, relating to environmental protection within the framework of sustainable development, Official Gazette, No. 43, p. 24

Rules for Combating Environmental Crimes in Algerian Law ———

- Under Hunting Law No. 04-07, a fine ranging from 20,000 DZD to 50,000 DZD is imposed on anyone who hunts or attempts to hunt without a license or authorization, in addition to imprisonment¹.
- Under Water Law No. 05-12, Article 172 imposes a fine ranging from 50,000 DZD to 1,000,000 DZD on anyone who discharges wastewater into wells, pits, water convergence channels, springs, public drinking places, dry wadis, or canals, in addition to imprisonment².

Two: Environmental Accessory and Complementary Penalties

These penalties come in the second degree after the principal penalties, and they are as follows:

1. Accessory penalties:

This type of penalty is only applied in the case of environmental felonies. Environmental felonies in environmental legislation, as previously noted, are relatively rare, since most environmental offenses are classified as misdemeanors or contraventions. However, they may be applied to felonies punishable under Articles 87 bis, 432(2), and 396(2) of the Penal Code, as well as Article 66 of Law No. 01-19 relating to waste management and disposal³.

The most prominent of these penalties is **legal incapacitation**, which may be applied to the environmental offender. It refers to the prohibition of the convicted person from managing their property throughout the duration of the sentence, in addition to deprivation of

¹ Law No. 04-07 of August 14, 2004, relating to hunting, Official Gazette, No. 51, p. 11.

² Law No. 05-12 relating to water, previous reference, p. 35.

³ Ammar Boudiaf, *Summary of Algerian Environmental Law*, Djoussour Publishing House, Algeria, 2017, pp. 112–115.

national rights. This penalty is applied automatically by operation of law¹.

2. Complementary penalties:

These penalties supplement the principal punishment and play an important role in addressing environmental delinquency. Among the most significant are²:

a) Confiscation of part of the environmental offender's assets:

This measure is not applied in environmental misdemeanors or contraventions unless expressly provided by law. Examples include:

- Article 82 of Law No. 01-11 on maritime fishing, which states that in case of the use of explosives, the fishing vessel is confiscated if its owner is the offender.
- Article 89 of Forestry Law No. 84-12, which provides for the confiscation of forest products involved in any violation in all cases.
- Article 170 of Water Law No. 05-12, which allows for the confiscation of equipment and machinery used in the construction of wells or new excavations, or any modifications within quantitative protection zones.

b) Dissolution of a legal entity:

This means prohibiting the legal person from continuing its activity, in accordance with Article 17 of the Penal Code. However, it would have been preferable for this penalty to be adopted as a principal sanction, in line with the modern trend that recognizes the criminal liability of legal persons.

Preventive Measures to Address the Dangerousness of Environmental Offenders

¹ Ahsan Bousquiaa, *Summary of General Criminal Law*, Houma Publishing, Algeria, 2018, p. 289.

² Mohamed Sabri Saadi, *Explanation of Algerian Penal Code (General Part)*, Dar El Houda, Algeria, 2016, pp. 354–356.

Rules for Combating Environmental Crimes in Algerian Law ———

In addition to the punitive approach based on deterrence, preventive measures have emerged as a necessary consequence of the need to reform offenders and reintegrate them into society. The importance of preventive measures in addressing the dangerousness of environmental offenders is reflected through the following¹:

- Depriving the offender of material means that facilitate the commission of environmental offenses by confiscating such means.
- Closing legal entities to prevent their continued harm to the environment.
- Withdrawing licenses to practice professional activities.

1. Prohibition from Exercising an Activity:

This personal preventive measure is a precautionary tool aimed at preventing the environmental offender from committing environmental crimes, particularly when a profession or activity facilitates such offenses². Due to its severity, its application is excluded in cases of contraventions, and its maximum duration is limited to ten (10) years.

Examples include the withdrawal of a beach exploitation license when the offender fails to comply with obligations after formal warning, the temporary or permanent withdrawal of hotel operating licenses, as well as what is stipulated in Article 102 of Law No. 03-10³, which allows the court to prohibit the use of an establishment until authorization is obtained from the competent authority.

2. Confiscation:

Confiscation may function either as a penalty or as a preventive measure. It is considered a penalty when it applies to lawful objects in

¹ Donald Kaniaru (ed.), *Multilateral Environmental Agreements: Negotiation and Implementation*, Environmental Law Institute, Washington D.C., 2006, pp. 45–47.

²A . Kiss & D. Shelton, *Guide to International Environmental Law*, Martinus Nijhoff Publishers, The Hague, 2007, pp. 112–114.

³Algerian Law No. 03-10 of 19 July 2003 relating to Environmental Protection in the Framework of Sustainable Development, Article 102.

order to affect the offender's financial assets, whereas it is considered a preventive measure when it concerns unlawful items¹, serving to prevent their use in criminal activity.

Examples include the seizure of prohibited fishing equipment. Confiscation may also extend to items used in or facilitating the commission of the offense, such as weapons, ammunition, illegal fishing nets, and traps. It also includes the confiscation of the proceeds of crime, such as illegally caught fish, which may be directed to public benefit institutions after ensuring their safety.

The Hunting Law also provides for the confiscation of prohibited hunting tools and unlawfully obtained game.

3. Closure or Dissolution of Establishments:

This environmental preventive measure is particularly applicable to legal entities, especially in countries that do not recognize their criminal liability. It ranges between temporary closure and permanent shutdown in case of environmental law violations, in addition to the possibility of dissolving the legal entity.

Examples include the closure of hotel establishments for a period ranging from one week followed by continued closure until compliance with health regulations, closure for 15 days to one month for failure to observe hygiene standards, and suspension of activity when the establishment poses a threat to the environment.

4. System of Restoring the Situation to Its Original State:

Alongside principal, accessory, and complementary penalties, there is also the system of restoring the situation to its original condition.

¹Michael Faure & Alistair Z. Ham, *Environmental Criminal Liability and Enforcement in European and Comparative Law*, Edward Elgar Publishing, 2014, pp. 98–101.

Rules for Combating Environmental Crimes in Algerian Law ———

Although this system is generally linked to civil liability arising from unlawful acts, it may be ordered by the judge when possible¹.

For instance, a ruling declaring the illegality of constructing a wall in a prohibited area may lead the court to order demolition and restoration of the site to its original state.

Some legal systems have adopted this mechanism in environmental protection, either as an administrative measure or as a judicial sanction. French law, for example, has widely adopted this system, considering it either a principal sanction or an obligation arising from an administrative authorization, or a measure taken in urgent environmental incidents².

In Algerian law, however, the legislator does not consider the restoration of the original state as a principal penalty, but rather as a preventive measure. In this context, Article 102 of the Environmental Protection Law allows the court, in case of operating a classified facility without authorization, to order restoration of the site to its original condition within a specified period. Similarly, legislation relating to tourism expansion zones empowers the judge, in case of construction within tourist areas, to order compliance with development plans or demolition of illegal works and restoration of the site to its previous state.

Conclusion

In conclusion, this study has addressed the main question raised in the introduction regarding the adequacy and effectiveness of Algeria's legal framework in ensuring environmental protection. It appears that, despite the existence of a relatively comprehensive body of legislation—particularly Law 03/10 on environmental protection within the framework of sustainable development—this framework still faces practical limitations that affect its real-world effectiveness.

¹ Philippe Malaurie, *Droit civil: Les obligations*, 11e édition, Defrénois, Paris, 2018, p. 742

² Michel Prieur, *Droit de l'environnement*, 7e édition, Dalloz, Paris, 2016, pp. 589–592

Key Findings:

- The multiplicity and fragmentation of legal texts create complexity and hinder their proper interpretation and application.
- The limited number of environmental cases brought before courts reflects procedural and institutional constraints.
- There is a lack of specialization among some judges and prosecutors in environmental matters.
- The role of environmental associations, although legally recognized, remains insufficiently effective due to limited support and resources.

Recommendations:

- Develop a unified and comprehensive environmental code that consolidates all relevant legal provisions into a single, coherent framework.
- Adopt a comprehensive national environmental policy based on preventive strategies and emergency response mechanisms.
- Strengthen the capacities of competent authorities by providing modern equipment and advanced technologies to detect and address environmental crimes.
- Enhance the training and specialization of judges and prosecutors in environmental law to improve judicial effectiveness.
- Provide greater institutional and financial support to environmental associations to enable them to play a more active role.

Ultimately, effective environmental protection in Algeria depends on the integration of legislative, institutional, and societal efforts within a coherent and sustainable vision.

Rules for Combating Environmental Crimes in Algerian Law ———
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