



Domains of Environmental Protection in Algerian Urban Planning Law

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Abstract:

The Law on Land-Use Planning and Urban Development primarily seeks to balance residential, agricultural, and industrial functions while safeguarding the environment, natural habitats, landscapes, and cultural-historical heritage. Accordingly, land parcels located within protected natural sites, on high-fertility agricultural soils, in public forests, or within sensitive coastal zones are deemed non-buildable. Construction activity must also preserve the living environment and the aesthetic character of the area subject to development. These requirements align with Law 03-10 on the Protection of the Environment within the Framework of Sustainable Development.

Keywords: *environment; protection; urban planning law.*

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1. Introduction

The environment is a reservoir of natural resources on which development depends. Urban development, in particular, places pressure on core environmental components—water, air, soil, and biodiversity—and may contribute to their degradation. This tension has produced a conceptual clash between urban planning laws and environmental protection laws (Boughazala, M. N. 2011 p 192): urban expansion exploits natural spaces that environmental law aims to conserve. In response, environmental considerations and the principles of sustainable development have been integrated into urban policies. The environment has become a binding concern across sectors, including urban planning, prompting legislatures to adopt rules and mechanisms to restore the urban–environmental balance. These measures reflect the sector’s interest in protecting the environment and using natural resources efficiently without undermining their future viability—an approach increasingly termed sustainable urban development.

Building on the foregoing, addressing this topic requires posing the following research question: How has urban planning law contributed to preserving natural areas to ensure environmental protection?

To answer this research question, the study is structured into three principal sections as follows:

Section 1: Protection of natural environments and sensitive areas.

Section 2: Protection of the living environment.

Section 3: Protection of aesthetic character.

2. Section One: Protection of natural environments and sensitive areas

The expansion and spread of urban activity at the expense of natural and sensitive areas may constitute an encroachment upon the environment necessary for biological equilibria, which environmental law seeks to protect. These areas therefore require special legal protection. The legislature has accordingly afforded them protection in numerous urban planning statutes through the joint protection of such environments and areas, specifically: areas with a natural character, agricultural areas, the coast, and forests.

First: Protection of Areas with a Natural Character

The Algerian legislature, in Law No. 03-10 (Algeria2003) on the Protection of the Environment within the Framework of Sustainable Development, defines areas with a natural character as “any territory or part of a territory distinguished by its environmental characteristics, including in particular natural landmarks, landscapes, and sites.(Algeria2003)

Also included within this domain are natural reserves, regulated by Law No. 11-02 on Protected Areas within the Framework of Sustainable Development , (Algeria. 2011). which defines them as “any area designated for the protection of biological diversity and shared natural resources.(Algeria2003)

In line with the protection conferred by environmental legislation on this category of areas due to their ecological importance, the legislature granted them specific protection, notably during preparation of the National Scheme for Territorial Planning(National Scheme for Territorial Planning: 2001December 2001, on Territorial)which aims to protect, restore, and develop the national ecological heritage , and to safeguard biological diversity when developing mountainous highlands (Law No. 01-20 (2001))

To ensure the protection of areas with a natural character from the risks of urban expansion, urban planning laws—particularly Law No. 90-29, as amended and supplemented by Law No. 04-05 on Land-Use Planning and Urban Development—provide, within the determination of buildable parcels, that they must be compatible with the objectives of preserving environmental equilibria when located in natural sites(Algeria. (1990)). Additionally, land-use planning and urban development instruments set the conditions that allow for the protection of sites and landscapes, especially natural ones.(Law No. 90-29 (1990)

There are also numerous urban planning enactments that aim to shield these areas from urban expansion, including: Executive Decree No. 06-325() setting the rules for the construction and layout of hotel establishments (Article 13);(Law No. 06-06)establishing the City Orientation Law (Articles 6, 8, 9); Executive Decree No. 91-176(Algeria. (1991).) specifying the procedures for preparing the urban planning certificate, the subdivision permit, the partition certificate, the building permit, and the demolition permit; and Law No. 08-15(Algeria. (2008)) setting the rules on compliance of buildings and completion of their construction (notably Article 16).

Second: Protection of Agricultural Areas

Urbanization in Algeria has expanded at the expense of agricultural land because most Algerian cities are situated within agricultural surroundings—particularly northern cities (notably the Mitidja Plain)—either for rental housing or for the establishment of industrial zones.(Jeman, M. (2012–2013) p. 33) This has adversely affected natural environments as well as the country’s living and aesthetic framework.

Accordingly, the Algerian legislature, through Law No. 03-10 on the Protection of the Environment within the Framework of Sustainable Development, has afforded special protection to agricultural areas against all forms of degradation and pollution, by allocating and preparing land for agricultural purposes in accordance with urban planning and development documents and environmental protection requirements. (Law No. 03-10 (2003): Art. 60)

Consistent with environmental protection requirements for this type of area, especially against the effects of urban expansion, urban planning legislation—specifically Law No. 90-29, as amended and supplemented, on Land-Use Planning and Urban Development—provides, within its planning instruments, conditions that allow for the rational use of spaces and the preservation of agricultural activities from the effects of urban expansion, to ensure a balance between the functions of housing and agriculture, based on respect for the principles and objectives of the national urban planning policy. (Law No. 90-29 (1990), Art. 1)The Land Occupancy Plan designates the locations of agricultural land that must be safeguarded and protected.(Law No. 90-29 (1990), Art. 31)

There are also several other urban planning enactments which, in line with environmental protection requirements, grant special protection to agricultural areas. These include Law No. 02-08 (Algeria. (2002).) on the conditions for creating and developing new towns, which states in Article 8, paragraph 2, that new towns cannot be created, in whole or in part, on arable land; and Executive Decree No. 06-325 setting the rules for the construction and layout of hotel establishments, which provides in Article 13 that a hotel establishment may be built only on parts that respect appropriate setbacks relative to the operations of agricultural holdings when located on agricultural land.

Third: Protection of the Coast

Under Algerian legislation—particularly Law No. 02-02 (Algeria. (2002)) on the Protection and Enhancement of the Coast—the coast includes all islands and islets and the continental shelf, as well as a land strip with a minimum width of eight hundred (800) meters along the sea. It comprises: the slopes of hills and mountains visible from the sea; coastal plains; all forest thickets; land designated for agricultural use; all wetlands and their beaches; in addition to sites that include landscapes or those bearing a cultural or urban character. (Law No. 02-02 (2002), Art. 7)

Law No. 02-02 also contains provisions that prohibit undermining the natural condition of the coast(Law No. 02-02 (2002), Art. 9) particularly with respect to the urban expansion of residential agglomerations located on the coastal strip, or the height of residential agglomerations and other buildings planned on the heights of coastal cities.

Pursuant to Executive Decree No. 07-206 (Algeria. (2007).) which sets the conditions and modalities for construction and land occupancy on the coastal strip and for occupancy of the natural parts adjacent to beaches, coastal areas and the parts adjacent to beaches must be subject to a study, known as the Coast Development Study. This study must determine the environmental condition as well as the ecosystems that have developed in those areas and that require special protection. Under the same decree, it is also necessary to determine the state of land occupancy, geological specifications, the status of water resources, and the coastal environment. The study is initiated by the Minister responsible for urban planning and the environment and must

be prepared by accredited offices. (Executive Decree No. 07-206 (2007), Art. 4.)

In accordance with the provisions of the aforementioned Executive Decree and the requirements of protecting the environment and ecosystems in coastal areas, the Algerian legislature set conditions for urban expansion on the coast as provided by Article 45 of Law No. 90-29 on Land-Use Planning and Urban Development. Coastal urban expansion must preserve open spaces and highlight the value of sites and landscapes that characterize the natural, cultural, and historical heritage of the coast and the environments necessary for ecological equilibria. Building is prohibited on a parcel located on a strip of land 100 meters wide from the shoreline, except where authorization is granted for constructions and activities that require direct proximity to water.

To protect the coast from pollution arising from the waste and impacts of urban expansion, and under Executive Decree No. 07-206 mentioned above, which sets the conditions and modalities for construction and occupancy on the coastal strip, construction and land occupancy directly linked to the functions of authorized economic activities on the coastal strip are prohibited at a distance of less than three (03) kilometers, in addition to the requirement to provide wastewater treatment plants for population centers established on the coasts. (Saidan, A. 2008 p. 255.)

Fourth: Protection of Forest Areas

The Algerian legislature defines “forest,” in Law No. 84-12 establishing the General Regime for Forests, as amended and supplemented by (Law No. 91-20))Algeria. (1984) as “all lands covered with forest species in the form of forest stands in a normal state,” and Article 9 specifies what such forest stands may contain.

Given the importance of forests in protecting environmental systems and conserving resources, as well as in environmental protection, recreation, and contributing to the protection of water resources) Ministry of Territorial Planning and Environment. 2005). the legislature has prohibited urban expansion at the expense of these sensitive environmental areas—whether under Law No. 84-12 establishing the General Regime for Forests, or under urban planning laws, particularly Executive Decree No. 91-175 setting the general rules for land-use planning and urban development, and Law No. 08-15 setting the rules on compliance of buildings and completion of their construction.

In this context, Article 35 of Law No. 84-12 establishing the General Regime for Forests prohibits any form of construction in forests, except in exceptional cases in which a permit is required—for example, prohibiting the establishment of any sawmill within the forest except at a distance of 20 kilometers, with the necessity of obtaining a permit from the ministry in charge of forests.

Furthermore, Law No. 08-15 setting the rules on compliance of buildings and completion of their construction provides that any building erected on forest land or

land of a forested nature is ineligible for any compliance and is subject to demolition (Law No. 08-15 (2008): Art. 16)Executive Decree No. 91-175 setting the general rules for land-use planning and urban development provides that the granting of a building permit is subject to special provisions if it would hinder forest activity, and the permit may be refused if the project would cause the felling of a large number of trees.) (Algeria. 1991)

3. Section Two: Protection of the Living Environment

Among the principal and foundational objectives that environmental law seeks to achieve is the promotion of sustainable national development by improving living conditions and ensuring a sound living environment. (Algeria. 2003 . Art 2)

Environmental and urban-planning legislation alike has worked to realize this objective, which is tied to the protection of both the public interest and the individual interest.

First: Protection of the Living Environment in Environmental Legislation

The living environment is one of the domains connected to the environment; its degradation may lead to the deterioration of the environmental sphere, which would infringe upon the human right to life. On 31 December 1990, the United Nations General Assembly affirmed that individuals have the right to an environment adequate for their health and well-being. (Ammar, A. 2013)

Accordingly, through Law No. 03-10 on the Protection of the Environment within the Framework of Sustainable Development, the Algerian legislature accorded significant protection and importance to the living environment, considering it among the foremost objectives pursued by this law and making it one of the requirements of environmental protection, through:

- Prohibiting any advertising on immovable properties classified as historical monuments, on natural monuments and classified sites, in protected areas, on administrative buildings, and on trees and properties of aesthetic character. (Algeria. 2003)
- Preventing harms and pollutants that pose a danger to human health, that may threaten public security, disturb residents, disfigure buildings, and undermine the character of sites.
- Limiting noise that affects public tranquility—particularly neighborhood and industrial noise arising from various means of transport—addressed in Law No. 03-10, notably Article 72 et seq., insofar as such noise may constitute risks harmful to human health, cause excessive disturbance, or affect the environment.

Second: Protection of the Living Environment in Urban-Planning Legislation

The Algerian legislature afforded substantial protection to this domain in the execution of urban projects, especially in the rules of planning and development set out in Executive Decree No. 91-175 establishing the general rules for land-use planning and urban development, such as rules relating to public health and safety and rules governing residential buildings. These rules include numerous conditions that ensure the improvement and promotion of the living environment. By way of example, a building permit is to be refused if—owing to their location—buildings may be exposed to serious harm caused by noise or have detrimental environmental consequences (Algeria. 1991). Executive Decree No. 91-175 of 28 May 1991, setting the general rules for land-use planning and urban development: Arts. 4 & 5. (. Industrial establishments are also required to implement appropriate treatment to purify smoke and gaseous emissions from all substances harmful to public health. (Algeria. 1991).

Executive Decree No. 06-325, which sets the rules for hotel establishments and their layout, requires—within construction and safety rules—the assurance of acoustic comfort and the specification of minimum acoustic-comfort levels and of internal and external noise limits for the establishment. (Algeria. 2006)

Law No. (Algeria. (2007) concerning the management, protection, and development of green spaces (Algeria. 2007). aims to improve the urban living environment by mandating the inclusion of green spaces in every construction project undertaken pursuant to public urban and architectural studies, and by creating spaces for rest, recreation, leisure, sport, and food service. (Algeria. 2007).

4. Section Three: Protection of the Aesthetic Character

Since the urban fabric forms part of the artificial, built environment—produced by human intervention and interaction with its surroundings—its construction must harmonize with the ambient environment, which imparts beauty and elegance. (Al-Zanka, A. n.d.). However, several factors, notably human ones such as demographic growth and rural exodus, have led to overcrowded cities and the spread of informal constructions. The result has been a distortion of the aesthetic character of urban areas and cities, with negative effects on the surrounding natural environment. It has even come to constitute a form of pollution termed “visual pollution.”

Visual pollution is defined as all unpleasant scenes within the urban fabric that deprive individuals of their ability to stroll freely and cause discomfort due to the absence of aesthetic taste in buildings and their façades; the intermingling of sidewalks and roadways; poor urban planning of certain structures; the accumulation of waste and rubble from demolished buildings; the clutter of signs and advertising billboards; and the mismatch of their colors.(Amzian, W. 2011).

Accordingly, numerous urban-planning enactments have sought to upgrade the built environment and confer upon it an aesthetic appearance that is in harmony with its surroundings, by observing the following rules:

First: Exterior Appearance of Buildings

The Algerian legislature, through Executive Decree No. 91-175 setting the general rules for land-use planning and urban development—particularly Section Four entitled “Appearance of Buildings”—accords significant importance to the public aesthetic order. Article 27 provides that buildings must exhibit simplicity of volume, unity of appearance and materials consistent with sound economy in construction, overall urban coherence, and visual harmony.

Under the same legal text, a building permit may be refused if, by their exterior appearance, buildings affect the general character, the significance of neighboring places, or the preservation of vistas of historical monuments.

Second: The Architect’s Role in Enhancing the Built Environment

Executive Decree No. 94-07 (Algeria. 1994). on the conditions of architectural production and the practice of the profession of architect—beyond regulating the profession—aims to protect urban heritage and the built environment and to preserve them. The decree grants the architect an active role in enhancing and safeguarding the built environment by protecting architectural heritage; promoting architectural features (Algeria. 1994). through respect for the urban pattern (style and taste); imparting beauty and elegance to the city; and creating green spaces, rest areas, and planted zones. (Algeria. 1994).

Third: Observing Aesthetic Character in the Construction and Layout of Hotel Establishments

Executive Decree No. 06-325 (Algeria. 2006). which sets the rules for the construction and layout of hotel establishments, requires respect for the aesthetic appearance of the built environment. Article 44 mandates that the design for treating the natural appearance of the external spaces of a hotel establishment must ensure optimal integration with nature.

Fourth: Observing Aesthetic Character in the Development of Green Spaces

Law No. 07-06 on the management, protection, and development of green spaces refers to the beauty and elegance of the view when any green space is developed. To achieve landscape homogeneity and quality, it requires consideration of the region’s cultural and architectural heritage; the character of the site; the types of landscapes to be preserved and enhanced, or those that should be concealed (Algeria. 2007). so as to impart a general aesthetic framework to the surroundings and to the environment more broadly.

Fifth: Observing Aesthetic Character in Building Compliance and Completion

Law No. 08-15, which sets the rules on compliance of buildings and completion of their construction, aims—above all—to promote a built framework with an aesthetic, harmonious appearance, in order to eliminate the prevailing phenomenon of urban disorder in the country. Its general principles include the preservation and enhancement of the aesthetic appearance of the built environment. (Algeria. (2008))

5. Conclusion

It follows from the foregoing that the Algerian legislature has enacted an arsenal of environmental and urban-planning laws that operate in concert to ensure the joint protection of natural environments and sensitive ecological areas, in addition to safeguarding and enhancing the living environment and the general aesthetic character. This has been pursued by subjecting construction activities to prior environmental studies in order to evaluate proposed urban projects and determine the extent of their direct or indirect effects on resources, environments, ecological balances, and the living environment.

However, it may be observed that this legal arsenal has not proven effective in practice and on the ground, since it has not achieved its intended objectives. The continued degradation of natural resources and the deterioration of the surroundings attest to this, as a result of the mismanagement of land occupation and space by urban development activities. This situation calls for greater attention to elements of environmental planning and for activating the instruments of the National Scheme for Territorial Planning so as to account for the specificities of each area from ecological and architectural perspectives. It also requires instilling environmental awareness across all segments of society in order to improve the living environment, adopting civil conduct, and fostering awareness of the need to preserve natural resources for future generations.

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