



Legal framework for environmental protection against the risks of classified enterprises

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Abstract ;

The State has endeavoured to provide a diversified economic environment, thus encouraging the establishment of numerous regulated institutions that ensure the progress of development. However, despite the importance of these institutions, their activities continue to threaten human health, property and the environment. In order to prevent such damage, Algerian law has put in place a number of preventive measures, as well as the deterrent measures provided for in Law No. 10/03 on the protection of the environment within the framework of sustainable development and Executive Decree No. 198/06, which sets the regulation applied to institutions classified for environmental protection.

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1.Introduction

God Almighty created man, honored him with reason, and made him a caliph on earth. He bestowed upon him the bounties of the universe that would help him lead a healthy life and commanded him to preserve them and not cause corruption in them.

The environment is defined as the framework in which humans and all living organisms live, with all their elements of soil, water, and air. If there is a defect in the integration of these natural elements due to the scientific, industrial, and technical progress that humans have made as a result of industrial wealth, negative violations of the environment and its resources must appear, and this is what It is known as environmental pollution. Despite the progress of the phenomenon of environmental pollution, it has become a danger in the modern era. After pollution was the result of natural factors, it now results from various practices and activities of classified institutions.

This is what led the Algerian legislator to work hard to regulate the exploitation of classified institutions by establishing a set of rules and legal procedures that impose control over the latter from the day of their establishment until the end of their exploitation to protect the environment and achieve its balance.

Perhaps the most important reason that led us to choose this topic, despite the lack of research and studies that addressed the environmental risk resulting from classified institutions, is the knowledge of judicial oversight established by the Algerian legislator to confront the various environmental problems resulting from the activity of classified institutions.

Studying this topic raises the following problem: How effective is the Algerian legal system in protecting the environment from the dangers resulting

from the activities of classified institutions?

The nature of the topic requires relying on the descriptive and analytical approach through our presentation of the legal texts that dealt with the organization of classified institutions, and their analysis and interpretation to provide a descriptive study on monitoring the activity of classified institutions that have become a threat to the environment.

To address the problem at hand, we decided to divide this study into two sections:

The first section: classified institutions and images of the damages resulting from them.

The second topic: Preventive and deterrent mechanisms to protect the environment from the damage of classified institutions and the penalties resulting from violating them

The first section: classified institutions and images of the damages resulting from them

Protecting the environment and adhering to its laws has become an imposition on our world, so the state has to protect the environment from natural pollution, which is caused by natural disasters (earthquakes, floods, etc.), and from artificial pollution caused by classified institutions, which have become a major threat to the environmental environment due to... Its activities.

From this brief definition, we will discuss the nature of classified institutions (the first requirement), and then the types of damages resulting from classified institutions (the second requirement).

The first requirement is the nature of the classified institutions

The facilities classified for environmental protection are the result of a group of reasons and factors that have combined to stimulate commercial and economic life in various countries in

general, and in Algeria in particular. (Bin Amer and Rawan, 2013, p. 175). To define these classified institutions, it is necessary to define the definition of the classified institutions (the first branch) and their classification (the second branch).

Section One: Definition of classified institutions:

Given the importance of the concept of classified institutions, as they are the main focus of environmental issues, it was necessary to determine their definition through the jurisprudential definition (first) and the legislative definition (second).

First-The jurisprudential definition of classified institutions:

Jurisprudential definitions in the field of classified institutions are characterized by their scarcity, which has led jurisprudence to exert many efforts and attempts to develop an accurate definition of classified institutions. Some of them defined them as: "All institutions mentioned in the classification table of different establishments that are classified as harmful and annoying and that are dangerous." on public health" (Mujahid, 2016/2017, p. 34), and others defined it as: "Every shop, facility, or technical production unit that forms part of the project or can be identical to it, and the latter may be a dangerous or disturbing place for rest or Harmful to health" (Malaab, 2015/2016, p. 11)

Legal jurist Gerard Kono defined it as: "an expression that replaces the word dangerous, noisy, and unhealthy establishment, and it means laboratories, factories, warehouses, and workshops in general, with regard to establishments that are invested or owned by any natural or legal person, public or private." In particular, which could constitute danger or harm "for the comfort of the neighborhood, health, safety, public hygiene, for agriculture, for the protection of the environment and nature, or for the

preservation of sites or buildings" (Kono, 1998, p. 1625).

Second - The legislative definition of classified institutions: Order No. 76/04 relating to the rules applied in the field of security against fire and panic risks and the establishment of committees for prevention and civil protection defined them as: "dangerous, unhealthy and annoying institutions." Law No. 10/03 of July 9, 2003, relating to environmental protection within the framework of sustainable development defined it in the text of Article 18 as: "Factories, workshops, workshops, quarries, mines, and in general, institutions that are managed or owned by every natural or public legal person are subject to the provisions of this law. Or especially which may cause a threat to public health, order, security, sites, landmarks, and tourist areas, or may cause harm to the comfort of the neighborhood. In implementation of this law, Executive Decree No. 06/198 was issued on 5/31/2006, which specifies the controls that apply to environmental protection facilities, which are defined through the text of Article 2 as: "Every fixed technical unit in which one or more of the activities listed in List of classified establishments specified in applicable regulations.

Finally, the Algerian legislature has endeavored to give a definition of classified institutions as those establishments that are considered a constant source of pollution and that would pose a threat to the environmental environment (Mokhtar, 2022, p. 203).

Section Two: Classification of Classified Institutions

The types of classified institutions differ from one legal system to another, and this is due to the multiple classification criteria. To clarify these types, one must look at the classification criteria for classified institutions (first), and then at the

classification of classified institutions in Algerian legislation (second).

First - Classification criteria for classified institutions:

1. The criterion of the degree of danger and necessity: It is considered a main criterion in the classification of classified institutions, as stipulated in Article 19 of Law No. 03/10. This standard determines the percentage of risk resulting from classified institutions and the damages resulting from them. Among these damages and risks, we find air pollution, spoilage of water, the danger of fire, odors, and dust, damage to crops, obstruction of traffic, disturbance, explosions... etc. (Bin Amer and Rawan, 2013, p. 178).

2. The legal system standard: This standard is based on the standard of seriousness and necessity, where the classified institutions are divided according to the degree of danger, which allowed them to be subject to two legal systems, which are:

1. Licensing system: It applies to classified establishments that pose a significant risk to the environmental environment and result in negative harm to health and safety. The Algerian legislator required this type of classified institution to provide technical studies, called:

- **L'étude de danger studies:** which aim to identify direct and indirect risks that expose people, property, and the environment to risks as a result of the organization's activity. This study must also allow for the identification of technical measures to reduce the possibility of accidents occurring. The risk study must include a general presentation of the project and an accurate description of the areas adjacent to the project (Mokhtari, 2022, p. 645).

- **L'étude impact study:** With reference to the text of Article 15 of Law 03/10, this study subjects classified institutions that have a direct or indirect

impact on the environment. The impact study includes a presentation on the nature of the institution's activity, and the potential impacts, whether on the population or the environmental environment. This study must also include a presentation on the measures that allow these to be mitigated (Mokhtari, 2022, p. 645).

B) Declaration system: It is the system that determines whether the classified institution is included among the institutions that contain a lower degree of risk or that do not create any risk.

3. Standard of distance from urban (residential) areas: through which a specific distance is determined between urban areas and classified institutions that may cause damage to the environment such as explosions, fires, disturbance...etc. In such classified institutions, the Algerian legislature granted the administration the powers to prevent construction and housing in the vicinity or proximity to them. As for other institutions whose pollutants are absent or reduced, the administration can allow settlement in them while tightening control over these classified institutions.

Second - The legal classification of institutions classified in Algerian legislation: The classification of institutions classified in Algerian legislation differed according to the laws and decrees from beginning to end.

1. Executive Decree No. 76/34: He divided the institutions classified under the text of Article 2 into three 03 categories, where the first category includes "institutions that must be kept away from homes," while the second category includes "institutions that do not need to be kept away from homes," and finally the third category. These are "institutions that cause serious harm to the neighborhood or public health." The Algerian legislator has stipulated the severity criterion in the division and has also relied on the administrative licensing system.

2. Law 83/03: In which the Algerian legislator divided the classified institutions into two parts, the first section is subject to licensing by the Minister in charge of the environment, the governor, or the President of the Municipal People's Assembly, while the second section is subject to authorization by the President of the Municipal People's Assembly.

3. Executive Decree No. 88/149: Adopted the same division as Law No. 83/03.

4. Executive Decree No. 89/339: which repealed Decree No. 88/149 and met all the aforementioned standards, adding the production and storage capacity standard.

5. Law 03/10: Accordingly, Law 83/03 was repealed, as stated in the text of Article 19 thereof: "Classified facilities, according to their importance and according to the dangers or damages that result from their exploitation, are subject to obtaining a license from the competent minister for the environment and the concerned minister when This license is stipulated in the legislation in force and is issued by the governor or the head of the municipal people's council. Establishments whose establishments do not require an impact study or an impact summary are subject to a permit from the relevant municipal people's council. The methods for implementing this article are determined by regulation." From here we conclude that the legislator maintained the two previous administrative systems to exploit institutions.

6. Executive Decree No. 06/198: Article 03 of this decree divided the classified institutions into four (4) categories:

- **An institution classified as the first category:** includes at least an establishment subject to a ministerial license,

- **An institution classified as the second category:** includes at least an establishment subject to a license from the regionally competent governor,

- **An institution classified as the third category:** includes at least an establishment subject to the license of the head of the regionally competent municipal popular council,

- **An institution classified as the fourth category:** includes at least an establishment subject to the authorization system of the president of the regionally competent municipal popular council."

7. Executive Decree No. 07/144: which specifies the list of facilities classified for environmental protection within a detailed table attached to an explanatory appendix based on a set of standards:

- **The first criterion: Depends on the cell number and consists of four numbers:** Number 1 - the material used/activity, Number 2 - Class of risk/branch of activity, Numbers 3 and 4 - **Type of activity.**

- **The second criterion:** Depends on the designation of the activity of the classified institution

- **The third criterion:** Depends on determining the suspension area of the classified institution

- **The fourth criterion:** depends on specifying the documents attached to the application for a license to operate classified establishments.

The second requirement is pictures of the damages resulting from classified institutions

Classified institutions cause various environmental damages as a result of the nature of their activities. These repercussions are closely linked to industrial production and technological progress, and from there we will discuss the definition and characteristics of environmental damage (the first section),

and the images of environmental damage resulting from the classified institutions (the second section).

Section One: Definition and characteristics of environmental damage:

First - Definition:

1. The jurisprudential definition of environmental damage: Jurisprudential opinion did not agree on establishing a comprehensive and preventable definition of environmental damage due to the diversities and differences that characterize the environment. However, most jurists tried to combine the term damage with the term environment to extract a definition of environmental damage. The jurist Giro defined environmental damage as: "It is pollution or that harmful action resulting from pollution that humans cause to the environment and affects its various areas, such as water, air, and nature" (Prieur, 1991, p. 728). As for the jurist Caballero, he defined it as: "Every Damage that directly affects the environmental environment and is independent in nature and has an impact and repercussions on people and property" (Abbas, 2021, p. 869).

2. Legislative definition of environmental damage: The definition of environmental damage in legislation varies from one country to another as it depends on the environmental values and priorities of each society. Environmental damage is dealt with by specifying laws and rules for environmental protection. In French legislation and according to Article 4 of the Environmental Charter, we read: "Every person must contribute to repairing the damage he causes to the environment." This is an acknowledgment of the person's responsibility for the damage that befalls the environment as a result of his actions. On the other hand, there is the problem of defining environmental damage, which remains an obstacle to estimating appropriate compensation, who is entitled

to claim, and what is the amount of damage required for compensation. All this is in the context of the saying that: "Nature is priceless" (Abbas, 2021, p. 869). In the same way, the Algerian legislator did not come up with a clear definition but rather confined himself to extrapolating environmental damage in a group of articles contained in Law 03/10.

Second - Characteristics of environmental damage: Environmental damage is characterized by a set of characteristics, which are:

1. Environmental damage is non-personal damage: meaning that it does not affect a specific person, but rather it is damage that directly affects environmental resources, and therefore it is in-kind damage that does not affect a personal interest, but rather causes general damage in most cases.

2. Environmental damage is indirect damage: It is considered indirect damage because it does not harm humans or property directly, but rather it harms the environment in the soil, water, or air. The Algerian legislator referred to indirect environmental damage in Article 37 of Law 03/10, As he granted associations that defend the environment the right to compensation for direct and indirect damages that may affect the basis of collective interests and even for individual damages as well, which represent the living framework of people (Haddaj, 2018, p. 179).

3. Environmental damage is damage of a widespread nature: meaning that it is damage that does not affect the environmental environment in all its fields. Therefore, its effects are not limited to a specific region or a limited period of time but rather extend to affect different regions and times. Environmental damage may be the result of the phenomenon of pollution, which is considered one of the most dangerous sources of environmental damage, as most other environmental

damage is an inevitable result of environmental pollution, and there are other environmental damages to it. As well as the widespread nature, including the phenomenon of nuclear damage (Haddaj, 2018, p. 180).

4. Environmental damage is the damage of a slow (gradual) nature. It is considered one of the basic characteristics of environmental damage and means that the effects resulting from it often only appear after a period of time, as they do not appear immediately. After pollution occurs, its appearance is delayed until the future. Common examples of this damage include cancerous diseases resulting from environmental pollution (lung cancer = air pollution), or environmental radiation damage whose effects can appear immediately, which is known as acute radiation damage. It may also take the form of genetic damage to the offspring after a period of time. (Abbas, 2021, p. 871).

Section Two: Pictures of the potential harms of classified institutions to the environment

First - Environmental pollution: The Algerian legislator defined it in the text of Article 04 of Law 03/10 as: "Every direct or indirect change to the environment, which is the result of every action that occurs or may create a situation that is harmful to the health and safety of humans, plants, animals, air, air, water, land, and property." Collective and individual.

Second - Depletion of natural resources (wealth): The depletion of natural resources results from the increased activity of classified institutions, as well as their depletion of large quantities of natural resources such as water, wood, and minerals.

Third - Urban expansion at the expense of fertile lands: Institutions that are classified as a form of urban expansion affecting the environment, whether in an

organized manner that respects legal conditions and procedures, especially building permit procedures. Or in its unregulated form that is carried out without a license. As the population increases and their needs for housing, work, and entertainment increase...they increase, and this has a negative impact on the fertile lands and the aesthetic view of the region. (Bukhabal, 2017, p. 108).

The second topic: Preventive and deterrent mechanisms to protect the environment from the harm of classified institutions. The purpose of classified institutions has always been to maximize profit and interest, but with the increase in the needs of the latter, many problems have emerged that affect humans and their environment. Therefore, the Algerian legislator was aware of the seriousness of the projects of classified institutions and tried to protect the human environment. Therefore, he established a number of mechanisms and guarantees that must be taken into account. The matter relates to the administrative bodies and means that guarantee the protection of the environment from the harms of classified institutions (the first requirement) and the preventive and deterrent mechanisms that ensure the protection of the environment from harm. Classified institutions (second requirement).

The first requirement: Administrative bodies and means necessary to protect the environment from the damage of classified institutions

The role of the state in preserving the environment as a human right has become a constitutional duty, and there is no doubt that the administrative authority is considered the direct means of achieving this goal, within the framework of an embodiment that guarantees effective protection of the environment. The environment in a way that guarantees the citizen's right to a healthy environment

under the supervision and control of the administrative judge in the event of abuse or deviation from providing material and human capabilities (Bouzamah, 2022, p. 742). This requirement will address the administrative bodies that guarantee the protection of the environment from the harms of institutions classified as (the first branch), and then the administrative means that guarantee the protection of the environment from the harms of the institutions that are classified as (second).

Section One: Administrative bodies responsible for protecting the environment from harm caused by classified institutions

The Algerian legislature has granted the administrative bodies responsible for protecting the environment the authority to pre- and post-monitoring the activity of classified institutions, to ensure good conduct and avoid falling into environmental crimes. Which:

First - Central bodies: Their mission is to confront the environmental problems that may be caused by classified institutions, which were specified by Executive Decree No. 10/259, which are:

1. Directorate of Industrial Environmental Policy: It specializes in preparing legislative and regulatory texts in the field of the environment in general and the damage of classified institutions to the environment in particular and ensures their implementation. It prepares research and studies that help prevent pollution and its impact on the industrial field. It encourages the process of recovering objects, or as it is called. recycling process. This directorate includes four (04) branches: the Sub-Directorate for Hazardous Products and Waste, the Sub-Directorate for Classified Enterprises, the Sub-Directorate for Clean Technologies and Valorization of Waste and By-Products, and the Sub-Directorate for Programs for the Removal of Industrial Pollution and Industrial Hazards.

2. Environmental Studies

Evaluation Directorate: This directorate proposes the elements of the strategy in the field of environmental assessment. It also studies and analyzes environmental studies, risk studies, and environmental analytical studies and works to ensure their compliance. It also develops tools for evaluation, follow-up, and monitoring...etc. It includes two (02) branches: the Sub-Directorate for Evaluating Impact Studies, and the Sub-Directorate for Evaluating Risk Studies and Environmental Analytical Studies.

Second - Local bodies: They play an important role in preserving the environment, as they represent the executive authority that implements the laws related to protecting the environment and embodies the preventive nature of the occurrence of environmental crimes resulting from the actions of classified institutions. The local bodies are represented in:

1. State Environmental Directorate: The Algerian legislator was quick to follow in the footsteps of his French and Egyptian counterparts and established state-level inspectorates, equivalent in France to the Regional Environmental Inspection Authority (DIREN), as they aim to protect historical and cultural sites, views, and monuments. Reconstruction and architecture, environmental and nature protection. (Bou Hazma, 2022, p. 725).

It was named the State Environment Directorate pursuant to Executive Decree No. 03/434. The State Environment Directorate is considered a decentralized body affiliated with the Directorate or General Inspectorate of the Environment (Madin, 2015, p. 114). It also includes every state directorate for the environment: the Urban Environment Service, and the Industrial Environment Service. Its tasks are determined by a joint ministerial decision between the Minister in charge of

the environment and the authority in charge of public service.

These agencies work to preserve the environment by implementing and monitoring laws and regulations related to classified institutions.

2. The State Committee for Monitoring Classified Institutions: Article 28 of Executive Decree No. 198/06 stipulates that: "A committee shall be established at the level of each state to monitor classified institutions, called in the text "the Committee." This committee shall be formed by the competent governor of the region or his delegate. The members of the committee shall be appointed by a decision from the governor responsible for the region for a period of three years. (03) years, renewable, and replaced by the same forms. The government committee for monitoring secret institutions meets at the invitation of its chairman whenever necessary, and makes its decisions by a simple majority of the votes of its members. In the event of a tie, the president's vote shall prevail. After the committee completes its work, it prepares a record showing the work carried out by the committee and the opinion of each member. Its tasks, according to the text of Chapter 30 of the same decree, are to ensure respect for the organization that manages secret institutions, to consider requests to create secret institutions, and to ensure that the new institutions adhere to the text of the order. Decision prior approval for the establishment of classified institutions.

The second section: Administrative means to protect the environment from the damage of classified institutions

Embodying the principle of "precaution" contained in the Rio de Janeiro Declaration (Mokhtar, 2022, p. 207), the Algerian legislator has entrusted administrative means to protect the environment from pollution resulting from

classified institutions. These preventive measures are considered effective and are represented in:

First - Licensing system: What is meant is the permission issued by the competent administration to practice a specific activity, and it is not permissible to practice it except with this permission. The administration grants the license if the necessary conditions specified by law for granting it are met, and its discretion is limited to verifying the availability of these conditions and choosing the appropriate time to issue the license. (Barjough, 2015/2016, p. 27). As defined by the Algerian legislator in Article 4 of Executive Decree No. 06/198: "The license to exploit the designated facility, which aims to determine and take care of the effects of economic activities on the environment, is considered an administrative document proving that the designated facility fulfills the terms and conditions related to environmental protection, health, and security stipulated in The legislation and regulations in force, especially the provisions of this decree. In this capacity, it does not limit or replace any of the sectoral licenses stipulated in the applicable legislation and regulations. To obtain a license to operate a classified facility, it is required to pass through two basic stages stipulated in Article 06 of Executive Decree 06/198, which are: :

1. The initial stage of granting a license to operate the classified establishment: is summarized in the:

A) The stage of submitting the application file for a license to operate the classified enterprise: The file for the application for a license to operate the classified enterprise is submitted, accompanied by a set of documents, to the competent authority for study, which the Algerian legislator stipulated in Articles 05, 08 and 09 of Decree 06/198. As for the classified establishments for which the list

of classified establishments does not stipulate a study of the risk, it must include a report on the potentially dangerous materials in their possession so that the expected risks can be assessed. The authority responsible for studying the licensing application file represents the exploitation of the classified establishment in the competent regional governor, and this is what the legislator stated in the text of Article 07 of Executive Decree 06/198.

B) The stage of studying the file for an application for a license to operate the classified institution: The priority stage of the study of the file comes from the committee, which the legislator has granted all powers to monitor the classified institutions. The “committee” consists of a group of members who are appointed by the competent regional governor for a renewable term of 3 years, and they are replaced in the same forms. It can also seek the assistance of every person due to his competence in expressing his opinion on certain issues, and sometimes it can summon the project owner or offices. Studies to provide supplementary information or clarifications requested by the Committee. The committee is responsible for ensuring respect for the organization followed by the classified institutions, examining the establishment of the classified institutions, and ensuring that the new institutions adhere to the text of the decision prior to the approval of the establishment of the classified institution. As for its holding, the committee meets at the invitation of its chairman whenever necessary, and in the end, the committee makes its decisions by a simple majority of the votes of its members. In the event of equal work, the president's vote is taken, and the minutes of the committee's work indicate the opinion of each member.

T) The stage of prior approval for the exploitation of the classified establishment: After completing the stage of filing and studying the application file

for the exploitation license of the classified establishment, comes the stage of granting or imposing the prior approval decision. It is an administrative document granted by the Committee for Monitoring the Classified Establishments after completing the initial examination of the application file for the exploitation license. This decision must refer to the total rulings resulting from studying the application file for a license to exploit the classified establishment to allow it to be taken care of during the completion of the intended classified establishment. It is also considered a mandatory condition for commencing the construction work of the institution, as the project owner cannot begin the construction work of the institution except after obtaining the prior approval decision. Granted within a period not exceeding three (3) months starting from the date of filing the application file. However, there is a question in the event that the three-month deadline has been consumed and the committee does not grant the license applicant the approval decision, does this committee have the right to additional deadlines, or is its silence considered an implicit acceptance of the license application file, as required by Article 17 of Executive Decree No. 06 /198 The rulings resulting from studying the exploitation license application file to allow it to be taken care of during the establishment of the institution are useful in ruling out the idea of implicit acceptance, and preferring the idea that the silence of the committee is considered an implicit rejection (Bin Khaled, 2012, p. 60)

2. The final stage of granting a license to exploit the classified enterprise: Before granting a final exploitation license, the state committee for monitoring the classified enterprises must visit its site for the purpose of ensuring compliance with the documents included in the application file. After that, a draft decision for the exploitation license

is prepared and sent to the competent committee for signature. The exploitation license is issued in 03 cases stipulated in Article 20 of Decree 06/198.

The legislator took the criterion of risk and impact on the environment for granting exploitation licenses to classified institutions, as it authorized the Minister to grant exploitation licenses for institutions classified as the first category, and to the governor for institutions classified as the second category. As for institutions classified as the third category, the President of the Municipal People's Council is considered a competent person. By granting a license to exploit it. The deadline for submitting the exploitation license is set for three (03) months, starting from the day the application is submitted until the end of the work. However, the legislator did not indicate the validity period of this license, noting that licenses in the field of the environment are subject to the factor of determining the period (Baraza, 2021, p. 820), and therefore the license to exploit the classified institution is of indefinite duration except in the field of exploitation of stone quarries and laboratories, as stated in Article 07 of Executive Decree 08/188 stipulates: "A license to exploit stone and sand quarries is granted for a maximum period of four (4) years. The period of authority to exploit stone and sand quarries may be extended once by the regionally competent governor."

Second - The declaration system: Professor Azzawi Abdel Rahman defined it as: "an automatic behavior by which the notifier informs the administration of his intentions (Azzawi, 2003, p. 91). The declaration system concerns institutions classified within the fourth category, as the declaration related to the classified institutions is sent to the head of the Regionally competent municipal popular council at least sixty

(60) days before the start of the exploitation of the classified institution. The permit includes a set of data and documents stipulated in Articles 24 and 25 of Executive Decree 06/198, which sets the organization applied to institutions classified for environmental protection.

The second requirement: Penalties resulting from violating the legal texts related to protecting the environment from the damage of classified institutions

The Algerian legislature has enacted many laws that protect the environment from the actions and activities carried out by classified institutions. In the event that a crime is committed within the framework of these institutions' exercise of their activities, penalties are imposed by the competent authority within the framework of exercising the tasks assigned to it in accordance with the applicable texts, whether they are administrative penalties (Section One), and penal sanctions (Section Two).

Section One: Administrative penalties imposed to protect the environment from damage from classified institutions:

Before any administrative penalty is taken, there is a necessary legal measure that must be taken, which is a warning, as stipulated in the first paragraph of Article 25 of Law 03/10. It is intended to alert the administration of the classified polluting establishments about the activities they are carrying out and oblige them to take the necessary measures to make their activities conform. to applicable standards. These administrative penalties take several forms depending on the degree of seriousness, which are:

First - Temporary cessation of the activity of the classified institution: It means not practicing the activity temporarily in the event of danger or damage to the environment or harm to public health due to the work of the

classified institutions. The cessation may be temporary and specific for a limited period, and there is no doubt that stopping the activity leads to a material economic loss, in addition, The other loss is represented by the collapse of competing projects and the loss of consuming markets (Bouzama, 2022, p. 736), and this is what was proven through the second paragraph of Article 25 of Law 03/10. The temporary suspension is a positive punishment that is characterized by its speed in reducing pollution and damage to the environment because it allows the administration the right to use it as soon as it discovers any case of pollution, and this is without waiting for the outcome of the court procedures in the event of resorting to the judiciary (Raif, 2009, p. 75).

Second - Withdrawal of the license:

The Algerian legislator stated it in Article 23 of Executive Decree 06/198. The procedures for withdrawing the license apply in cases where it is proven that there is a situation that does not comply with the system applied to institutions classified in the field of environmental protection or the technical provisions stipulated in the license. Exploitation by surveillance interests. The persons competent to withdraw the exploitation license for establishments classified as such are the same persons who have the authority to grant it under the system applied to the establishments classified as such, i.e. the Minister in charge of the environment, the competent minister with regard to the exploitation license for establishments of the first category, the competent governor regionally with regard to the license to exploit establishments classified in the category. Second, the Chairman of the Council. Municipal People's Republic regarding licensing the exploitation of institutions classified within the third category (Bin Khaled, 2012, p. 91).

Third - permanently closing the classified institution: any failure or

prevention of the continued exploitation of the institution when it violates the law, and this decision is issued by the competent authority represented by the governor in accordance with what was stated in the second paragraph of the text of Article 48 of Executive Decree 06/198. The regionally competent governor can order the closure of the facility in the event that the facility owner does not obtain an exploitation license, or does not conduct risk studies if he does not respond to the warnings within the deadlines stipulated by law (Mokhtari, 2022, p. 648).

Fourth - Financial punishment: In the event that a crime that pollutes the environment is committed by classified institutions, the violator will suffer a financial liability, resulting in financial fines and environmental taxes.

Administrative financial fines: This is the money that the administration decides as an administrative penalty on violators of the legislation regulating the protection of the environment. It affects their financial liability and orders them to pay a sum of money to the public treasury, for the purpose of later reversing actions that affect the environmental system (Al-Alfi, 2009, p. 542). This penalty is considered one of the most widely used administrative penalties in environmental pollution cases due to the ease of imposing it and the speed of collecting the prescribed fine. There are also side effects resulting from some other administrative penalties (Wali, 2009/2010, p. 356), and financial fines are imposed on violators of legislative provisions. Related to environmental protection, it is boiled with green fines. Its purpose is not to provide a financial resource to be used to protect the environment, but rather the purpose of imposing fines is to deter violators of the provisions of environmental legislation (Barrahmani, p. 398).

Environmental levy: The Organization for Economic Cooperation and Development defined it as: “taxes, fees, and royalties imposed on polluters and in general on goods or services that lead to environmental degradation and the exploitation of renewable and non-renewable natural resources” (Al-Khair, 2017, p 455). The environmental tax is expressed as green taxes or environmental taxes, which are forced cash deductions paid to the public treasury and can be allocated for purposes unrelated to the tax basis. (Bin Ahmed, 2008/2009, p. 104), and it is an essential complement to the administrative control mechanism. There are many environmental levies in the form of environmental fees imposed in Algerian legislation on the activities of classified establishments for the year 2021, as they were determined by Finance Law No. 20/16. Knowing that the revenues from this fee are allocated 70% to the state budget and 30% to the National Fund for the Environment and Coast (Mokhtar, 2022, p. 2019).

Section Two: Criminal penalties imposed to protect the environment from damage by classified institutions

There is no environmental crime without a criminal, no criminal without conviction, and no conviction without punishment. The Algerian legislature has given environmental law two important features, the first of which is that it contains legal rules that aim to protect the environment, and at the same time, it includes penal provisions that arise when these texts are violated (Haloub and Ben Attia). (2020, page 258). In order for the classified establishment to be asked about the crimes committed by its representatives or members, another condition must be met, which is that the crime committed by the members or representatives must have occurred on behalf of the classified

establishment (Salouqi, 2019/2020, page 70).

First - The crime of exploiting a classified establishment without obtaining a license: With reference to the text of Article 102 of Law 03/10, anyone who exploits an establishment without obtaining a license shall be punished by imprisonment for a period of one (1) year and a fine of five hundred thousand dinars (500,000 DZD). **Second - The crime of exploiting the classified institution in contravention of a procedure that ordered its operation to be suspended or closed, or after the ban was carried out by the administration:** the legislator punished it with two (02) years imprisonment and a fine of one million dinars (1,000,000 DZD).

Third - The crime of the classified establishment exploiting the warning decision issued by the governor, respecting the exploitation requirements stipulated in the Classified Establishments Law, is a crime punishable under the text of Article 104 and Article 105 of Law 03/10.

Fourth - The crime of obstructing or obstructing the persons charged with guarding and monitoring during their duties: stipulated in Article 106 of Law 03/10. However, the Algerian legislator did not specify the nature of the actions committed by the facility's operators, which could be considered obstructing the persons charged with guarding and monitoring. Therefore, all acts and deeds that impede the work and tasks of persons charged with surveillance and guarding are considered crimes (Bockarie, 2015/2016, p. 70).

Conclusion:

In conclusion of this study, the issue of the legal protection of the environment from the damage of classified institutions has gained great importance, as this protection includes a set of preventive and deterrent measures and measures taken by

the state to reduce environmental pollution resulting from the activity of classified institutions. The Algerian legislator framed the concept of classified institutions through a set of legal rules, especially Executive Decree 06/198, and based their classification on Decree 07/144. It also sought to protect the environment through a set of preventive measures (licensing system, permit system) and deterrent measures (notification system). , license withdrawal system...etc.) through administrative bodies capable of protecting the environment from damage resulting from classified institutions.

However, the legislator did not tolerate the issue of disturbing the health of the environment, as it established criminal responsibility on representatives of classified institutions by imposing criminal penalties represented by a fine appropriate to the nature of the legal person.

To activate the protection of the environment from the damage of classified institutions, the following recommendations can be proposed:

- Establishing designated places for the establishment of classified institutions that are far from urban areas.
- Promoting community awareness of the importance of preserving the environment through radio programs, television programs, newspapers...etc.
- Requiring classified institutions to submit periodic reports to review the impact of their activities on the environment on a regular basis.
- Ensuring the implementation of rules capable of deterring violators, doubling the penalties, and making them balanced with the extent of the damage.
- Establishing judicial bodies specialized in looking into crimes related to the environment, as well as training judges specialized in the environmental field.

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