

The right to obtain environmental information enshrined in international and Algerian law



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Abstract:

The 1992 Rio Declaration adopted the idea of a procedural link between human rights and environmental protection, stating that environmental issues could only be best addressed with the participation of citizens, giving everyone the right to access information relevant to the environment, and that states should ensure this right. The right to information is of great importance in the environmental field, as it enables citizens to inform themselves and others about the content of projects that may have negative effects on their lives and rights. The right to access environmental information is an autonomous right and an essential tool for the exercise of other rights such as the right to life, the right to the highest attainable standard of health and other rights.

Key Words: human rights; environmental protection; information; negative effects; importance

حق الحصول على المعلومة البيئية في القانون الدولي والقانون الجزائري

ملخص:

تبنى إعلان ريو لعام 1992 فكرة وجود صلة إجرائية بين حقوق الإنسان وحماية البيئة، ذلك بتأكيد أن معالجة القضايا البيئية على أفضل وجه لا تكون إلا بمشاركة المواطنين، وتوفير لكل فرد الحق في الحصول على المعلومة ذات الصلة بالبيئة وعلى الدول أن تقوم بتسيير ممارسة هذا الحق. يتسم الحق في الإعلام بأهمية بالغة في المجال البيئي، من خلال تمكين وإعلام المواطنين بمحتوى المشاريع التي يمكن أن تكون لها آثار سلبية على حياتهم وحقوقهم. فالحق في الحصول على المعلومات البيئية حق قائم بذاته وأداة أساسية لممارسة حقوق أخرى كالحق في الحياة والحق في التمتع بأعلى مستوى من الصحة يمكن بلوغه وغير ذلك من الحقوق.

الكلمات المفتاحية: حقوق الإنسان، حماية البيئة، المعلومة، أهمية، آثار سلبية.

Introduction:

With the growth of discoveries in the field of various energy sources and the emergence of industrial prosperity, the environment is gradually deteriorating through excessive exploitation of natural resources, and the emergence of toxic factors such as industrial fog and pollution of the seas. This is what has forced countries to think about changing their policies to preserve the most important human right, which is the right to a clean and healthy environment. The period of the seventies of the twentieth century is considered to be the real beginning of the crystallization of thinking calling for the right to live in a healthy and peaceful environment, and during this period countries held an international conference on the human environment in the Swedish city of Stockholm in 1972, which formed the first expression of the global human consensus on the need to care for and preserve the environment, followed by After that, there were several international conferences and seminars, including legal texts and charters related to environmental protection.

The right to information is of great importance in the field of the environment, by making citizens aware of their responsibilities and informing them of the content of projects that could have negative effects on their lives and rights. In the report by the Special Reporter on the adverse effects of the illicit transport and dumping of toxic and dangerous products and wastes on the enjoyment of human rights, it was stated that the right to information is ‘an autonomous right and an essential instrument for the exercise of other rights, such as the right to life and the right to the enjoyment of the highest attainable standard of health¹.

This study addresses a fundamental issue centred on the following questions: What is the legal treatment of the right to obtain environmental information at international level and in Algerian law in order to protect the human right to a healthy environment?

Addressing the right to environmental information requires research into the legal enshrinement of the right to environmental information, then the content of the right and finally the limits of the right to obtain environmental information.

THE FIRST TOPIC:

Legal recognition of the right to obtain environmental information

The right to information is generally stipulated in Article 19 of the Universal Declaration of Human Rights, which states that everyone has the right to freedom of opinion and expression, which includes the right to hold opinions without harassment and to seek, receive and impart information and ideas to others through any media, regardless of frontiers. This right is enshrined in the International Covenant on Civil and Political Rights, where Article 19, states that every human being has the right to freedom of expression, and this right should include freedom to seek, receive and impart all kinds of rights, information and ideas regardless of frontiers, either orally or in written or printed form, in the form of art, or through any other media of one's choice. Paragraph 3 of Article 19 allows certain restrictions to be imposed, provided they are specified in a legal text.

First requirement: Scope of the legal recognition of the right to environmental information

As for the legal enshrinement of the right to information on environmental matters, this was enshrined in the Stockholm Declaration of 1972, which called for the encouragement of the transfer of information related to the environment, in addition to calling for the facilitation of procedures for obtaining information, including the free transmission of information in all countries on environmental matters, as discussed. The same point in the Salzburg Declaration of 1980, which included information and participation in the environment 'In which it was emphasized that everyone must possess basic information about the environment they will preserve, and it is the responsibility of governments to establish the necessary mechanisms to enjoy and activate this right in order to deal with any project or program that would harm the environment².

The 1982 International Charter for Nature also included certain provisions regulating the media element, notably in principle 16, which emphasized that all planning must include among its fundamental elements the adoption of strategies for preserving the environment, inventorying ecosystems and evaluating the effects of the policies to be undertaken, and that the public must be informed of all elements in good time to be able to be consulted and involved in decision-making. The 1992 Rio Declaration also included, in principle 10, the right of access to information on the environment held by the public authorities of the State, particularly when it concerns materials and activities that present a danger and a flagrant threat to the environment . At regional level, Article 10 of the 1950 European Convention for the Protection of

Human Rights and Fundamental Freedoms stipulates the right of everyone to receive and impart information. Article 13(1) of the 1969 American Convention on Human Rights stipulates that 'every human being has the right to freedom of thought and expression.

This right includes the freedom to seek, receive and impart information and ideas of all kinds to others, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any media of one's choice, which is expressly affirmed in the 1998 Aarhus Convention on the Right of Access to Environmental Information³, Participation in Decision-making and the Right to Judicial Review in Matters Relating to the Environment⁴. Regional treaties on environmental protection also affirm the right to information and consider it a positive duty to announce or provide information. For example, the Nordic Convention for the Protection of the Environment (dated 19/02/1979) requires States Parties to publish relevant information in newspapers or other forms of public media. The ASEAN Agreement on the Conservation of Nature and Natural Resources (dated 9/07/1985) obliges States Parties to declare and disseminate information relevant to the environment⁵. There are other international treaties that impose a duty to warn other countries of environmental hazards, on the grounds that the right to information is not a right limited to individuals alone, but rather a right of countries towards other countries as well, especially as regards information on the transport of toxic waste, or the use of nuclear energy. This includes the protection of the human rights of individuals in countries other than those in charge of the media. This was also confirmed by the Rio Declaration.

Second requirement: The limits of the right to obtain environmental information

The exercise by individuals of their fundamental rights and freedoms in the society to which they belong is closely linked to the need to balance their private rights and freedoms with the requirements of the public interest. International human rights conventions recognise a number of restrictions and exceptions to the right to obtain information, provided that such restrictions are specified by law and are necessary exclusively for specific purposes such as respect for the rights and reputations of others and the protection of national security, public order, public health or morals. From this point of view, the enjoyment and exercise by individuals of their right to obtain environmental information is bound and restricted by a set of controls and restrictions linked to national security and public order, as well as the requirements of professional secrecy.

First section : National security and public order requirements:

States prevent information from being obtained and disseminated on the pretext of national security or public order, even if the State is not experiencing special circumstances or a state of war. This exception can often be an excuse or an argument on the part of the country's public authorities to prevent the provision of information relating to the environment, especially as it falls within the discretionary margin of countries. It is of course up to the countries themselves to decide whether the situation for which information is requested falls within the exception of national security or public order. International human rights organizations monitor the exercise of discretion by the State, focusing on the legitimacy of the objective and its proportionality to the action taken⁶.

In her report on the environment and human rights, Special Rapporteur Fatima Zahra Ksantini believes that States should not exaggerate the pretext of national security to prevent individuals from obtaining environmental information, as this could harm the environment and their personal rights. This argument must be considerable, to ensure that the public's right to environmental media is not unnecessarily restricted.

Second section : Professional secrecy requirements:

There are no clear texts in Algerian law 03-10 relating to environmental protection in the context of sustainable development that clarify the concept of confidential data and information in the environmental field, and in this case the administration still reserves a wide margin of discretion in determining what is considered confidential data. Among the exceptions relating to professional secrecy, stipulated in Law 03-10, is the fact that it is forbidden to review licensing procedures relating to facilities affiliated to the ministry of national defense, including studying the extent of influence, which is specifically supervised by the Ministry of National Defense.

The French courts have ruled that non-final subjects and preparatory work carried out by the administration cannot be reviewed. It is also forbidden to consult any documents relating to nuclear activities that fall within the scope of the State's commercial and industrial secrecy.

The Special Reporter, who is studying the relationship between environmental protection and human rights, believes that the restriction on professional secrecy cannot be invoked when dealing with certain hazardous materials in neighboring industrial areas, where there is a possibility of large-scale industrial disasters such as the Chernobyl and Bhopal accidents. Individuals, groups and neighboring countries

must have sufficient information on the extent of the negative impact of development projects on their environment. Each individual must also have access to all the information on environmental waste and pollutants linked to industrial, commercial and agricultural operations.

THE SECOND TOPIC:

The right to obtain environmental information in Algerian law

The right to obtain environmental information is closely linked to the broader right to access knowledge and environmental data, and in order to determine the content of this right, the concept of the right to obtain environmental information must first be addressed by defining this right, then the question of exercising the right to obtain environmental information and finally implementing the right to obtain environmental information.

First requirement: The extent of the notion of the right to environmental information

The right to obtain environmental information is defined as ‘the right of individuals, groups and peoples to obtain, receive and impart news, ideas and various kinds of correct information to others in a variety of lawful ways, whether in writing, in print or in any artistic form, and by any means, regardless of geographical location or frontiers’ To strengthen participation in shaping public opinion, decision-making and environmental protection⁷.

The right to environmental information is granted to any person, whether natural or legal, to obtain environmental information held by public authorities⁸. The Aarhus Convention recognized the public's right to obtain environmental information, and also defined the term ‘public’ in the text of Article Two and Paragraph Four of the Convention as ‘one or more natural or legal persons in addition to associations, organizations or groups made up of such persons, in the manner determined by the law or custom in force in the country’⁹.

The environmental information that individuals are entitled to obtain includes everything relating to existing and anticipated environmental conditions, the nature and extent of environmental problems, existing activities and projects and those to be established, and their environmental impact. In addition to any data, records, statistics or documents written, photographed or stored electronically or in any other way relating to:

* The state of environmental components such as air, atmosphere, water, soil, land, landscapes, natural sites, biological diversity and its components, including genetically modified organisms, and the interaction between these components.

* Factors such as materials, energy, noise, radiation, environmental activities, measures, agreements, policies, legislation, plans and programmers that are likely to affect the above elements of the environment, cost-benefit analyses and assumptions, and other economic analyses and assumptions used in environmental decision-making.

* The state of human health and safety, conditions of human life, cultural sites, economic and industrial facilities, and the extent of their impact on the elements of the environment or the potential for the elements of the environment to be affected by these activities.

Second requirement: Exercising and enforcing the right to environmental information

Exercising the right to obtain information on the environment is an essential condition for protecting the environment from the dangers that many economic and industrial activities can cause to the individual, and a necessary and unavoidable tool for creating transparency and democracy when held accountable in environmental matters, and at the same time it is a procedure that any natural or legal person has the right to do¹⁰.

Any person who wishes to exercise his right to information and access to documents held by public authorities in relation to environmental protection, or on the impact of a project or activity on elements of the environment must submit a request to the competent department to obtain the information he requires, and he must state in his request the accuracy of the information or data he wishes to obtain ' The content of the request must not be general information on the environment as this gives the administration the possibility of rejecting the request.

Access to environmental protection information from the Environmental Information Bank is free of charge, except of course for copying costs¹¹. But the question that arises here is whether the person wishing to obtain environmental information is required to hold the nationality of the country for which the information is intended or not? Going back to Algerian law no. 03-10 on environmental protection in the context of sustainable development, for example, we note that article 07 does not require the person requesting environmental information to be Algerian"... For any natural or legal person...", we conclude that any natural or

legal person may obtain environmental information if there are no restrictions relating to the public interest or to the confidentiality of the project.

The national legislation compared has approved the issue of the right to request access to environmental information, for any natural or legal person, without requiring the legitimate interest or reason of the person requesting access to environmental information, as the condition of interest or reason constitutes an unlawful restriction¹².

In exercising this right, the decision-maker may use it as an excuse not to provide information to those who request it. Both the Belgian Environment Act and the French Environment Act stipulate the procedures, such as submitting a request for environmental information to the public authorities, and the same is true of Jordan's Right of Access to Information Act no. 47/2007, article 9 of which stipulates that a request for information must be submitted in accordance with the form approved for this purpose, specifying the exact purpose of the information.

The administration's position on the request for environmental information submitted to it is twofold: either accepts the request and endeavor to provide the owner with the necessary information, or reject the request and refrain from providing the environmental information in its possession.

First possibility: The administration accepts the request to obtain environmental information, and in its effort to activate and enforce this right, the administration concerned must take all measures and means to provide the required information and allow the applicant to consult it. This is confirmed by the Aarhus Convention, according to which the States Parties to the Convention must ensure, in accordance with their domestic legislation, that measures are taken to provide environmental information in a transparent manner, and that this information is real and accessible to all those who request it.

Second possibility: The relevant authority to which the request for environmental information is submitted may reject it, and the laws have specified exclusive cases in which the authority may reject the request for information. If, for example, the request is general, inaccurate and clear, or if the information is still not accessible to the public authorities or is in the process of being prepared, the request may also be submitted to authorities not concerned by the nature of the information.

Any person who considers that the administration has rejected his request for environmental information or ignored his request without giving logical and factual reasons, by the unconvincing answer with which the administration has replied to him, may bring a legal action before the ordinary administrative or judicial authorities

in accordance with the procedures followed in the country before which the request is made.

Third requirement: implementing the right to obtain environmental information:

The realization of the right to environmental information imposes an obligation on States to facilitate the exercise of this right. The United Nations is working to require countries to submit periodic performance reports on the extent to which they are improving their citizens' access to environmental information, and the organization is taking the lead in working towards the translation of the publications issued by the United Nations Environment Protection Programme on the state of the environment, and is working towards their publication in all countries of the world. The General Assembly of the United Nations, in accordance with its Recommendation No. 45/76 of 12/11/1990, entitled 'Questions relating to the media', has also requested the Department of Public Information to pay particular attention, in its media affairs, to the question of the protection of the environment and human rights and to work towards the dissemination of all information relating to the subject.

One of the important applications for guaranteeing the right to obtain environmental information is to rely on the environmental impact assessment system, provided by the project owner during the environmental impact assessment study stages, and it is of great importance in providing management with a database on the consequences of carrying out a project on the environment. It also enables the State to predict the effects of activities likely to harm the environment and violate the rights of individuals, to assess these effects in advance and to strike a fair balance between the various conflicting interests at stake. The public is informed of the results of these studies and endeavors to provide them to those who make enquiries, in order to assess the dangers they face.

Most States have adopted laws on environmental impact assessment in accordance with Principle 17 of the Rio Declaration¹³, which states: 'Environmental impact assessment should be undertaken, as a national instrument, for proposed activities that are likely to have significant adverse environmental impacts and are subject to a decision by one of the competent national authorities'. The World Bank requires an environmental impact assessment for all projects financed by the Bank, to ensure their environmental safety and sustainability¹⁴.

Human rights bodies have repeatedly emphasised that the protection of human rights from violations resulting from damage to the environment requires States to

provide access to environmental information and to require an assessment of environmental impacts that may impede the enjoyment of human rights, for example in its General Comment No. 15 (2002) on the right to water, the Committee on Economic, Social and Cultural Rights noted that individuals should have full and equal access to information on water and the environment, and urged States, in their responses to periodic reports, to assess the effects of activities and projects likely to have negative impacts on the environment and thus on the enjoyment of human rights, in particular the right to health.

The Special Reporter on the situation of human rights defenders (Margaret Sikagia) presented in her detailed report to the General Assembly on 5/08/2013 that information on large-scale development projects should be made publicly available and accessible to all. Exceptions to this principle should only be applied when the disclosure of information undermines the interests of the State, as stipulated in its national legislation restricting respect for human rights.

Regional bodies have also concluded that States should make environmental information available and request assessments of environmental impacts that may have a negative impact on the enjoyment of human rights. One example is the Guerra case (Guerra), where the prosecutors denounced the total lack of information regarding the negative effects the plant could have on them and their families. Therefore, when it examined the complaint before submitting it to the court, the European Commission of Human Rights considered that the States parties to the Convention have a positive obligation to provide information (text of article 10 of the European Convention on Human Rights) and to make it available to everyone, whether at the request of individuals or by informing the public of the extent of the impact of negative activities on the private lives of individuals. The European Court of Human Rights disagreed with the Committee, finding that the failure of the public authorities to provide the information requested by Guerra and others constituted a clear breach of the State's obligation to respect individuals' right to privacy (Article 8 of the Convention)¹⁵.

Conclusion:

This study leads to the conclusion that environmental whistle blowing is not a reliable and sustainable means of guaranteeing satisfactory access to corporate environmental information, at least as long as whistleblowers are not treated in a manner commensurate with their contribution to environmental protection and the general interest. It can be said that full respect for procedural rights, in particular the right to obtain environmental information, leads to the emergence of a healthier environment, which in turn contributes to a higher degree of enjoyment of substantive rights such as the right to life, the right to health, the right to property and the right to privacy. The opposite is also true: failure to respect this right can lead to environmental degradation, thereby impeding the full enjoyment of other human rights.

The study also produced a number of findings, the most important of which are as follows:

- * There are no clear texts in Algerian Law 03-10 on the protection of the environment in the context of sustainable development that clarify the concept of confidential environmental data and information as a restriction on the exercise of the right to obtain environmental information.
- * States abuse the argument of public order and national security to prevent individuals from obtaining information on the environment, resulting in violations of their environmental and personal rights.
- * Economic development and the construction of factories means withholding information about development projects from individuals, resulting in negative effects on their health and personal rights.

Bibliography List

A- Books

- Abdel Nasser ZiadHayajneh: « Environmental law - The general theory of environmental law with an explanation of environmental legislation », Dar Al-Thaqafa for publishing and distribution, Amman, 2012
- DELVAMINCK Anne, PUTZ Jean-François: "the right of access to environmental information", Fédération Inter-EnvironnementWallonie, Belgium, 2009.
- Muhammad Youssef Alwan, Muhammad Khalil Musa: « International Human Rights Law - Protected Rights - Part Two, Dar Al-Thaqafa for Publishing and Distribution, Amman (Jordan), 2009.
- WEBER Marc, the Management of Industrial and Household Waste in the European Community, Library DROZ, Geneva, 1995.

B- Thesis

- KaidiSamia: « International trade and environment », doctoral thesis, specialized in law, Faculty of Law and Political Science, MouloudMammeri University, TiziOuzou, 2009.
- OunassYahya: « Legal mechanisms for environmental protection in Algeria », doctoral thesis in public law, Faculty of Law and Political Science, Abu BakrBelkaid University, Tlemcen, 2007.

C- Articles:

- AMADO S. Tolentino: 'Environment and information', in environment and human rights, p29.
- GRANDBOIS Maryse and BERARD Marie-Hélène, « International recognition of environmental rights: environmental law in search of effectiveness », The Notebooks of Law, vol. 44, n° 3, 2003, pp 430-445.
- PRIOR Michel: "The right to the environment and citizens: participation", RJE, vol 13 n° 4, 1988, p.397-398.
- SCHRAGE Wiecherm, The Convention on Access to Information, Public Participation in Decision-making and Access to justice in environmental matters, RJE, N° special, 1999, pp 5-12.
- WINISDOERFFER Yves, note relating to the Kyrtatos.c case. Greece, May 23, 2003, RJE, n° 2/2004, pp 171-179.

D- Report

- Human Rights Council, Report of the Special Rapporteur on the adverse effects of the illicit transport and dumping of toxic and dangerous products and wastes on the enjoyment of human rights, MrOkechukwuEbiano, 18 February 2008, Document No: A/HRC/7/21.
- FatmaZohraKsentini, Special Reporter, Human Rights and Environment, doc n°E/CN.4/Sub.2/1994/9, United Nations, published on 07/26/1994.

¹- Human Rights Council, Report of the Special Rapporteur on the adverse effects of the illicit transport and dumping of toxic and dangerous products and wastes on the enjoyment of human rights, MrOkechukwuEbiano, 18 February 2008, Document No: A/HRC/7/21, p. 2.

- ²- WEBER Marc, the Management of Industrial and Household Waste in the European Community, Library DROZ, Geneva, 1995, p 367.
- ³- GRANDBOIS Maryse and BERARD Marie-Hélène, « International recognition of environmental rights: environmental law in search of effectiveness », The Notebooks of Law, vol. 44, n° 3, 2003, p 442.
- ⁴-SCHRAGE Wiechem, The Convention on Access to Information, Public Participation in Decision-making and Access to justice in environmental matters, RJE, N° special, 1999, pp 5-7.
- ⁵-Ms. FatmaZohraKsentini, Special Reporter, Human Rights and Environment, doc n°E/CN.4/Sub.2/1994/9, United Nations, published on 07/26/1994
- ⁶- Muhammad Youssef Alwan, Muhammad Khalil Musa: « International Human Rights Law - Protected Rights - Part Two, Dar Al-Thaqafa for Publishing and Distribution, Amman (Jordan), 2009, p 283.
- ⁷- AMADO S. Tolentino: 'Environment and information', in environment and human rights, p29.
- ⁸- DELVAMINCK Anne, PUTZ Jean-François: "the right of access to environmental information", Fédération Inter-EnvironnementWallonie, Belgium, 2009,p 11. Article 07, paragraph 01, of the Algerian law on environmental protection in the context of sustainable development also stipulates that: « Any natural or legal person who requests information related to the state of the environment has the right to obtain them » See law no. 03-10 published on July 19, 2003. Official Journal N°. 43.
- ⁹-The Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, EJM, pp 89-113.
- ¹⁰- PRIOR Michel: "The right to the environment and citizens: participation", RJE, vol 13 n° 4, 1988, p.397-398.
- ¹¹- OunassYahya: « Legal mechanisms for environmental protection in Algeria », doctoral thesis in public law, Faculty of Law and Political Science, Abu BakrBelkaid University, Tlemcen, 2007, footnote 161.
- ¹²- Abdel Nasser ZiadHayajneh: « Environmental law - The general theory of environmental law with an explanation of environmental legislation », Dar Al-Thaqafa for publishing and distribution, Amman, 2012, p 83.
- ¹³- The Algerian legislator has introduced an environmental impact assessment into the Algerian legal system as an effective tool for preventing environmental damage, and Article 15 of Law 03-10 states: 'Development projects, structures, fixed installations, factories, and works are subject in advance, as appropriate, to an impact study or a summary of the impact on the environment Other techniques, and all construction and development works and programmes that directly or indirectly, immediately or subsequently, affect the environment 'Especially on species, resources, environments, natural spaces and ecological balances, as well as on the framework and quality of life.' As for the procedures for implementing this article, the legislator referred to Executive Decree No. 07/145 of 19/05/2007, which specifies the scope, content and approval procedures for the environmental impact summary study, Official Gazette No. 34 of 22/05/2007.
- ¹⁴- KaidiSamia: « International trade and environment », doctoral thesis, specialized in law, Faculty of Law and Political Science, MouloudMammeri University, TiziOuzou, 2009, p 134.
- ¹⁵- WINISDOERFFER Yves, note relating to the Kyrtatos.c case. Greece, May 23, 2003, RJE, n° 2/2004, pp 171-179.