

" Administrative sanctions as a deterrent guarantee for environmental protection and controls
of their application in the Algerian legislation"

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الجزاءات الإدارية كضمانة ردعية لحماية البيئة وضوابط تطبيقها

في التشريع الجزائري

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Abstract:

Administrative punishment is one of the deterrent methods taken by the administrative control authorities in order to preserve the environment, where most of the legislation, similar to the Algerian legislation, has moved towards imposing administrative sanctions on violations committed in the environmental field, by granting the control authorities relatively broad powers to impose many procedures and controls on violators, which in turn achieves a deterrent guarantee for the protection of the environment, and in turn, the legislator has imposed procedural controls for the application of these sanctions, in order to reconcile the maintenance of public order on the one hand, and the imposition of procedural controls, to ensure that the freedoms of individuals are not infringed on the other hand.

Keywords: Deterrent guarantees; administrative sanction; environmental protection; environmental administrative control.

Introduction:

The intervention of administrative authorities in order to protect public order is necessary under the modern state, which requires the imposition of certain restrictions on the exercise of individual activities related to public freedoms in accordance with the existing control legislation, and administrative intervention with its bodies is one of the necessary functions of the state, through which it aims to establish a balance between the activities of individuals that pose a threat to the environment on the one hand, and the preservation of public order on the other, the individual primarily seeks to achieve all his own interests by various means without paying any attention or importance to the consequences that may result from the exercise of his activities, this necessarily leads to chaos and encroachment on the external environment, which must be respected, and only with the intervention of the administrative authority to control it.

The deterrent policy for the protection of the environment consists in determining the appropriate punishment for every act that would harm it, whether it is caused by the activity of natural or legal persons, and the sanctions vary according to the laws regulating them and the different entities that expect them, the punishment may be criminal, civil or administrative, and the latter is the subject of our study, administrative punishment is one of the methods of control

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taken by the administrative control authorities in order to protect public order in the field of environmental protection from pollution and prevention of its consequences, which prompted the Algerian legislator, like other modern legislations, to authorise these authorities broad powers to impose many measures on violators of environmental laws, according to it having procedural flexibility and technical expertise in the field of follow-up and detection of violations related to the organisations within its competence, which achieves deterrent guarantees for any violator of the legal provisions that regulate this, but it is necessary that the powers granted to these authorities are not absolute, but must be limited by controls that ensure that the freedoms of individuals on whom these sanctions will be imposed are not infringed.

From this point of view, the following problem crystallises before us:

Has the Algerian legislature been consistent in establishing legal provisions providing for sufficient deterrent administrative sanctions to protect the environment, in exchange for imposing procedural controls restricting their application to establish a balance between ensuring environmental protection on the one hand and not compromising the freedoms and rights of individuals on the other? Is it sufficient to establish legal rules for the protection of the environment, or is it necessary that these rules be accompanied by administrative penal guarantees to ensure that they are respected in order to achieve the objectives envisaged by their adoption?

To answer this problem, we followed the descriptive analytical approach by giving an accurate description of the administrative penalty in the environmental field and reviewing the legal texts and applications of administrative decisions issued on this subject and deducing them by analysis.

For this purpose, we have divided the topic of this research paper into two main axes:

- 1- Concept of environmental administrative penalty.
- 2- Applications of administrative sanctions in the field of environmental protection.

1-The concept of environmental administrative punishment:

In this analysis, we touch upon the definition of administrative punishment, then distinguish it from similar environmental sanctions, and then on the characteristics of administrative punishment.

1.1- Definition of administrative punishment:

An administrative penalty means a measure taken by administrative control bodies against a person who violates a provision of laws and regulations in order to protect the public environmental system¹.

"Administrative sanctions in this regard mean the sanctions imposed by the administrative authorities on all natural and moral persons, in the event of committing one of the acts harmful to the environment that the law prohibits, as the legislator grants the administrative authorities the authority to impose sanctions of a financial nature, such as a fine, and non-financial sanctions, as well as to take measures to limit the activity of the polluter or warn him of the necessity of continuing them"².

Administrative punishment is imposed for violations that violate the rules of administrative law, in the sense of sanctions determined by the administrative authority with the aim of maintaining public order in one of its aspects, and also means those sanctions with a punitive characteristic that are signed by an independent or non-independent administrative authority, which is in the process of exercising its public authority towards individuals, regardless of their functional identity, as an authentic way to deter the violation of certain laws and regulations³.

1.2- Distinguishing it from similar environmental sanctions:

In the section, we will deal with the distinction of administrative punishment from criminal punishment, civil punishment, and disciplinary punishment.

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1.2.1- Distinction of administrative punishment from criminal punishment:

Administrative punishment differs from criminal punishment in that the latter is imposed on a person who has committed a crime, this type of punishment is considered a therapeutic method, as for administrative punishment, its purpose is to avoid and prevent the occurrence of a crime, such as confiscating spoiled food that can cause poisoning of others and cause food pollution, the judiciary also signs criminal punishment, the signed decrees of criminal sanctions enjoy the authority of the warrant, while the administrative control authorities sign administrative punishment⁴.

1.2.2- Distinction of administrative punishment from civil punishment:

Among the most important points are the following:

- Administrative punishment is signed by administrative control bodies, while civil punishment is signed by the judiciary.
- Administrative punishment consists in imposing restrictions on personal freedom, on practicing a profession or on others, while civil punishment does not exceed the cancellation of the contract, the reduction of the obligation or the award of compensation.
- The purpose of signing an administrative penalty is to protect public order, while a civil penalty is intended to prevent violation of jus cogens norms in civil law⁵.

1.2.3- Distinction of administrative punishment from disciplinary punishment:

Administrative punishment differs from disciplinary punishment in that the latter is imposed by the administration on employees and state workers when they violate their job duties, and it is either signed by the president or the disciplinary body, while administrative sanctions are of a preventive nature⁶.

1.3- Characteristics of environmental administrative punishment:

Since the administrative penalty has the character of deterrence, the same is the case if it is applied to violations related to the environmental aspect, and for this penalty several characteristics are taken in their entirety from the concept or definition, we summarise them within this element.

1.3.1-The deterrent character of administrative punishment:

Administrative punishment is characterised by the characteristic of deterrence due to an act that represents a violation of a legal provision, or a violation of an administrative order, such as the withdrawal of a building permit whose technical defect appeared in its technical file, or refraining from performing an act that is legally required.

In addition, the recognition of the authority of the administration to impose deterrent sanctions at the beginning made it share the judiciary's inherent competence to impose deterrent sanctions for any violation of a legal provision or an administrative decision, on the pretext of violating the principle of separation of powers, especially that judicial rulings are the usual way to force individuals to comply with the decisions of the administration, which bases its authority to impose sanctions on its right as a public authority and its duty to operate the public facility⁷.

As economic developments and changing political ideologies have made the affected state no longer remain at the stage of the guardian state, and under the influence of social theories that state intervention is necessary more to limit the tyranny of personal benefits over social interests, the state has expanded the scope of intervention of administrative agencies, so it has issued many legislations that give the administration the authority to impose sanctions on some violations, the most prominent of which is the administrative fine, the closure of the facility, as we will explain later⁸.

1.3.2- Subjective administrative sanction:

Administrative punishment is taken to confront any legal violation that has already occurred, hence its purpose is to deter the violator from what he has committed or to restrain others from the same act, so it is characterised by generality, meaning that it is not limited to a certain category of

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citizens and not others, but the authority of the administration in signing it extends to all those who are addressed by the legal text and violators of it⁹.

Administrative punishment is also issued by administrative decisions, which consider the unilateral characteristic as its most important feature, which is reflected in the subjectivity of the punishment and interferes with determining its features and objectives, organically, it is issued by the competent administrative body of public law persons and is unique in its subjectivity in its decision, objectively, it is for the purpose of deterrence as a punishment for unlawful conduct, and from the applied side it is characterised by generality to enter into the scope of the privileges enjoyed by the public authority, all so that this punishment is characterised by administrative character¹⁰.

1.3.3-Recognition by the administration of the sanction authority:

Recognising the authority of the administration to sanction does not violate the principle of separation of powers, although there may be some who object to this, considering that the task of ensuring the implementation of laws is the prerogative of the judiciary and cannot be entrusted to the administration, otherwise it would be an interference in judicial affairs.

However, contrary to what is prevailing with regard to the authority of the administration in general, this authority is in the field of control; all its actions are subject to the principle of legality, like all other administrative acts, in which they need to be issued by a specialist, and in accordance with the prescribed procedures and forms, and the administration aims to achieve the goal for which it was granted jurisdiction, which is the preservation of public order¹¹.

The separation of powers is no longer an absolute separation, but has become a relatively flexible one, for example, the issuance of regulations in ordinary and exceptional circumstances by the public administration, or the judgment of a civil judge in some disputes to which the administration is a party, including road violations, or compensation claims caused by a state vehicle as stipulated in Article 802 of law 08-09¹².

The authority of the administration in the field of control is also subject to popular control, represented by the control of public opinion, civil society organisations, political parties, the press and the media, and the role of each of them in achieving a balance between power and freedom without arbitrariness or interference between the authorities to be a corrective control and achieve justice¹³.

1.3.4- Proportionality between the administrative offense and the administrative penalty:

The main field of the principle of proportionality in administrative justice is represented in the field of imposing sanctions in decisions to counteract the extravagance of some administrative bodies in exercising their authority, and the glaring disparity between them in assessing appropriate sanctions, so that the establishment of a glaring paradox between the degree of administrative offense and the type and amount of punishment and their disproportion, leads to the illegality of the administrative decision¹⁴.

Proportionality is considered an important principle on which administrative punishment is based, and it is one of the punitive principles to which deterrent sanctions in general and administrative punishment in particular are subject; it requires that the authority concerned with determining the punishment is balanced in its choice and discretion, and that it chooses what is necessary to confront the legal violation and administrative offense to be controls of punishment, in addition to the control of the administrative judge, which may extend from respect for the principle of legality, to the principle of appropriateness of administrative decisions, and accordingly control has become in proportion to the decision with its place, that is, between the punishment and the violation justified¹⁵.

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In addition, it should be noted that there are restrictions and controls that must be respected and not exceeded by the administrative control authorities in imposing administrative punishment, due to the following conditions:

- The illegality of the absolute prohibition of freedom, and in this regard, we note that the administrative judiciary is strict in the controls and restrictions that must be met in the administrative control procedure that interferes with the regulation of fundamental freedoms guaranteed by the constitution¹⁶.

- On the other hand, it is necessary to adhere to the non-multiplicity of administrative sanctions for a single violation, in the sense that if the criminal and administrative penalties may be duplicated for the same incident, then, based on the requirements of the principle of proportionality, the two penalties should not increase when they are the same, for example, the administration has to close the shop if its management entails an imminent danger to public health, if the violator continues to manage it despite the closure, it has the right to apply another penalty against him¹⁷.

- The last restriction that must be taken into account when signing an administrative sanction is the proportionality of the sanction with the control measure to be taken, since if public freedoms are restricted on the occasion of the exercise of administrative control measures, this measure must be necessary and feasible to address certain situations to advance the threat to public order, and thus a balance between freedom and public order is achieved and thus the rule of proportionality is achieved¹⁸.

Perhaps the basis of these restrictions is the non-release of the discretion of the administration, which is considered a fertile field for abuse of power, which may lead to the possibility of violating the constitutionally protected rights and freedoms of individuals, and therefore it is clear to us that no matter there are legal rules that serve as a general principle, it is certain to leave room for there to be exceptions necessitated by some of the necessities that must be possible.

As for the non-imposition of a specific means to counter public disorder, it is not envisaged to leave individuals the freedom to choose the means of preventing danger when the disorder that the administration expects is serious, leaving individuals the freedom to choose the means of avoiding danger is understandable in cases of disorder that threaten only minor damage, as in serious cases, it is for the administrative control authorities, but they must intervene by means they deem effective in preventing danger¹⁹.

- In addition, administrative control procedures vary according to the type of freedom to be restricted to maintain public order, we find them restricted if the freedom to be restricted is guaranteed by constitutional or legislative provisions, but if the freedom or activity to be restricted is just a license and does not constitute real public freedoms, the control authority over such activities is discretionary and broad, and such measures cannot be considered legitimate unless they are necessary.²⁰

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certain to leave room for there to be exceptions needed by some of the necessities that must be possible.

2- Applications of administrative sanctions in the field of environmental protection:

Through the mentioned above about administrative sanctions, the latter is considered a method adopted by the administrative authority to achieve public order in general and the environment in particular; where everyone who engages in activities harmful to the environment entails non-financial administrative sanctions, which are sanctions that do not directly affect the violator's financial liability, but have other forms that affect the activity of the project and its profits, and take the form of an excuse or warning, license withdrawal and forced execution.

2.1- Administrative excuse penalty:

An apology or warning is the lightest and simplest administrative sanctions that can be imposed on those who violate the provisions of environmental protection laws, and the warning is by sending an editorial containing the violation or violations that are confirmed by environmental control agencies, and indicating the extent of their seriousness and the severity of the penalty that can be imposed in case of non-compliance²².

2.1.1-What is meant by an apology:

It is the procedure used by the administration to alert violators of individuals or institutions who are engaged in an activity that would harm the environment in order to correct the situation in order to avoid such damage, and often the penalty for continuing the violation despite the warning is the imposition of other more severe administrative sanctions such as closure or revocation of the license²³.

It should be noted that the excuse is not a real penalty, but a way to alert and remind the violator of the mandatory intervention to achieve conformity of his activity before taking deterrent measures, and therefore it is considered a prelude to the legal penalty, provided that in case of failure to take adequate treatment that makes the activity conform to the legal conditions, he will be subject to the penalty provided for by law²⁴.

2.1.2-Applications of the excuse method in the field of environmental protection:

One of the legal applications to the use of the excuse mechanism is what the legislator referred to in law 03-10 on environmental protection in the framework of sustainable development, for facilities classified under Article 25 of it, as follows : "when the exploitation of a facility not included in the list of classified facilities results in dangers or damages affecting the interests mentioned in Article 18 above, and based on a report from the interests of the environment, the Wali excuses the exploiter and sets a deadline for him to take the necessary measures to eliminate the proven dangers or damages".

With regard to waste treatment and the prevention of its dangers, in Article 48 of law 01-19, it is pointed out that when the exploitation of a waste treatment facility poses serious dangers or negative consequences for public health and/or the environment, the competent administrative authority orders the exploiter to take the necessary measures immediately to remedy these situations, it is noted through the preliminary reading of the article and exactly in the first paragraph the use of the legislator here, the word of the order, and this is nothing but an expression of the seriousness of the situation because the method of the order is stronger from a legal point of view, although the intention here is to excuse.

What confirms this analysis is the second paragraph of the same article, which states that in case of non-compliance by the person concerned, the said authority automatically takes the necessary precautionary measures at the expense of the official and/or stops the criminal activity or part of it²⁵.

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2.2- Penalty for cessation of activity:

It is considered one of the administrative measures that the administration resorts to in the event of a danger due to the practice of industrial projects, activities that may lead to pollution of the environment, which is known as stopping the activity.

2.2.1-The cessation of activity is intended:

It is a measure resorted to by the administration in the event of a danger due to the practice of industrial projects of their activities, because of the negative impact on the environmental environment, leading to its pollution or prejudice to public health, and it is a positive penalty characterised by speed in reducing pollution and damage to the environment, because it gives the administration the right to resort to it just to make sure there is a pollution situation²⁶.

If there is no excuse or warning, the administration may resort to closing the facilities and factories that cause environmental pollution, a temporary closure specified for a period of information mentioned in the closure order, as a punishment for the owner of the project and its employees by extension, because the closure leads to the cessation of activity and followed by economic material loss, as well as other losses represented in the provision of competing projects and the loss of consumer markets, which prompts entrepreneurs to urge steps in avoiding the causes by taking ways to prevent the leakage of pollutants from the project in the future²⁷.

2.2.2- Applications of the method of stopping activity in the field of environmental protection:

One of its applications is provided for in Article 25 of law 03-10 on environmental protection in the framework of sustainable development on classified institutions, when their exploitation results in dangers or damage to public health, hygiene and security, environmental regulations, and natural resources, and based on a report from environmental interests, the Wali excuses the exploiter, sets a deadline for him to take the necessary measures to eliminate the dangers, and if the exploiter does not comply within the specified period, he stops the operation of the facility, until the conditions imposed are implemented with the adoption of interim measures, including ensuring the payment of dues of users of any kind²⁸.

Article 48 of law 01-19 on waste management, control and removal also applies, since when the exploitation of a waste treatment facility poses serious risks or negative consequences for public health and/or the environment, the competent administrative authority orders the exploiter to immediately take the necessary measures to remedy these conditions, and in case of non-compliance, the said authority automatically takes the necessary precautionary measures at the expense of the responsible and/or stops all or part of the criminal activity.

An applied example is decision No. 756 dated June 12, 2019, which included the closure of the second-class institution "chicken slaughterhouse" to Mr. B / Y, Wali of Guelma, as he was granted an exploitation license related to the second-class institution "poultry slaughterhouse" to the mentioned mister according to the state decision No. 3172 dated in 03 /12/2017.

Based on the correspondence of the chairman of the municipal People's Council of the concerned municipality, the location of the classified institution, which includes contamination of the wad Bayaz stream with blood resulting from the remnants of the poultry slaughterhouse to Mr. B/Y.

Based on the field inspection records of the state committee for monitoring classified institutions for environmental protection, in addition to the decisions to excuse the violations recorded in the inspection minutes of the committee, and at the suggestion of the environment director, it was decided:

The second-class institution has closed the chicken slaughterhouse of Mr. B / Y located in Guelma state, until the violations mentioned in the field inspection minutes of the state committee for monitoring institutions classified for environmental protection are removed.

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In case of non-compliance with the implementation of the content of this decision, the concerned person shall be subjected to judicial follow-up and penalties provided for in the active laws and regulations.

2. 3- Penalty for withdrawal of administrative license:

The withdrawal or revocation of a license is the most severe and brutal type of administrative sanctions against projects that cause pollution, and just as the administration has discretion in granting administrative licenses, it has such authority regarding the revocation of licenses, but the conditions for granting and revoking administrative licenses are often predetermined by the legislator, and this makes the authority of the administration to grant, withhold or refuse administrative licenses more restricted than discretionary²⁹.

2.3.1-The withdrawal of the license is intended:

It is defined as the stripping of a decision of its legal force in relation to the past and the future by the competent administrative authority.³⁰

Withdrawal in administrative law is also defined as the termination and execution of the legal effects of administrative decisions retroactively as if they did not exist at all.³¹

Due to the importance and seriousness of the license, the law determines the cases of cancellation, as well as the conditions for granting it, and the reasons for cancelling licenses of projects or public shops are usually based on the following matters:

- If the continued operation of the project becomes an imminent danger to public security, public health or the environment that cannot be remedied.
- If the project does not meet the basic requirements that must be met in it, many of these requirements relate to environmental protection.
- If the work of the project is stopped for more than a certain period specified by the law, as there is no place for the license to remain suspended, and this motivates the owners of the projects to continue their operation and not to stop it.
- If a final decision is issued to close the project permanently or to remove it³².

2.3.2- Applications of the license withdrawal method in the field of environmental protection:

One of the most important applications of the license revocation method is related to the building license, and since there is a license to build if the licenses do not affect the environment, there is a cancellation of the license, or an order to demolish without a license, and this in many cases if this will lead to prejudice to the surroundings, environment, aesthetic view³³, and:

Every building permit is refused if the preservation of green spaces is not guaranteed, or if the completion of the project leads to the destruction of vegetation³⁴.

One of the judicial applications on this is the decision issued by the state council on 29/09/2011³⁵ in the case of the municipality of Hammam Debagh (Guelma) against Mrs."B-H".

"The appellant replied in her response petition that she had in good faith added and built a room in the garden of her residence..."From the case of the state, the appellant, Mrs. B-H, did not respect the preservation of green spaces and originally built without a license.

"Whereas in the case of the state, the municipality's interests conducted an inspection, and the appellant carried out construction works without a license, and this situation obliges the municipality to intervene and demolish the construction completed with no license without recourse to the judiciary ...".

"...As for the previous data, the appealed decision applied the law correctly, which requires the judiciary to support the appealed decision" to preserve green spaces is a civilised environmental coordination that has become an applicable legal requirement for the urban layout.

- If the buildings are of a nature to affect safety or public security due to their location, size or use, the building permit can be refused or granted provided that the special provisions contained in the applicable laws and regulations are respected³⁶, or the building can be demolished if it

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violates the plans of the originally granted license, and judicial applications for this, the decision issued by the council of state on 25/02/2010³⁷ in the case of the municipality of Sidi Am'hammed against mister: "R-A".

Where "...The plaintiff obtained a building permit to upgrade his housing type (Villa) under a license dated 17/05/2003 under No. 33, but exceeded what was stated in the license, the municipality issued him several excuses in order to demolish what was built contrary to what was stated in the building permit plans, and that the violation was inspected by a report dated 22/05/2005 by the construction inspector of the Administrative Department of Sidi Am'hammed, as a result, the mayor made a decision dated 19/02/2006 under 09, by demolishing what was built contrary to the plans of the license because it affected security and public tranquillity, and therefore the defendant municipality asked the judiciary to reject the lawsuit for non-establishment..." Where it is clear from the above case that buildings that are detrimental to security and public tranquillity will be subject to refusal of the license or demolition in case of exceeding the license given by the special interests and assigned to it.

"...The appellant's situation relates to construction works contrary to the license issued to him by the appellant on 17/05/2003 under No. 33, and therefore the authority responsible for achieving the conformity of construction or demolition of parts in excess of the building license is the criminal justice authority...."

- And also, for the planned construction or configuration in a floor exposed to natural hazards such as floods, drift and earthquakes³⁸.

- Also, if the buildings, due to their location, can be subjected to serious damage caused by noise in particular³⁹.

Another application is the provisions of Article 87 of the water law 05-12, which stipulates that in the event that the licensee of the concession does not observe the conditions stipulated by law for the use of water resources, this license or concession would be cancelled.

Conclusion:

In summary, this study, which dealt with the subject of deterrent guarantees for the protection of the environment through administrative sanctions in Algerian legislation, is primarily due to the concept of the environment, which has taken on a great dimension through recent international developments in this field, as it has become to attach great importance in its legislation to protect it from the dangers of pollution, the consequences of which are serious for the individual and society at all levels, which necessitated the intervention of the state in order to effectively protect the environment through several deterrent methods, the most prominent of which is the imposition of administrative sanctions on each violator, whether through administrative excuses, suspension of activity or withdrawal of a license; the last ones that are the most important images of administrative punishment, after detailing the provisions of these sanctions, we have concluded a number of results with some recommendations, we formulate them as follows:

- 1- As important and serious as administrative sanctions are, however, they remain deficient from the legal side in imposing sufficient mandatory and due rigor by the bodies in charge of this for the effective protection of the environment.
- 2- Repeated disrespect from the citizen as a result of the lack of social awareness of the importance of preserving the environment for sustainable development what we need is intellectual awareness and cultural awakening emanating from within the entire society.
- 3- The absence of material sanctions, and sanctions affecting freedom, so that non-compliance with legislative provisions in the field of environmental protection remains just a revocation of licenses and a halt to activities.

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- 4- The administrative sanctions provided for in the field of activities affecting the health, peace and security of the individual are of a preventive nature rather than a deterrent, and this is what made them insufficient to achieve adequate guarantee.
- 5- We say that despite the shortcomings of the legal provisions enshrined by the legislator in protecting the environment in the desired form, we say that it is relatively consistent in this. We also thought that a number of recommendations could be formulated as follows:
 - 1- The need to activate the material sanctions, in addition to the sanctions related to the organisation of projects harmful to the environment, such as the suspension of activities and closure with financial fines and fines for delay.
 - 2- Activating deterrent sanctions of all kinds, whether material or organisational deterrent sanctions, with the need to activate sanctions for the withdrawal of licenses and the cessation of activities related to environmental protection.

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- Turki Sayeh, environmental protection under Algerian legislation, Al-Wafa legal library, Alexandria, First Edition 2014, p. 150.

²⁵- Kamal Moaifi, ibid., pp. 143-144 .

²⁶- And also :-Mona Maklati and Salim Hamidani, Ibid., p. 166 .

Mona Maklati and Salim Hamidani, Ibid., p. 166 .

²⁷- Arif Saleh Makhlef, Ibid., p. 319 .

And also :-MagedRagheb El Helou, environmental protection law in the light of Sharia, new university House, Alexandria, Egypt, 2007, pp.-pp. 148-149.

²⁸- Boukrot Rabia, the effectiveness of administrative control in achieving environmental security in Algerian legislation, article published in the Journal of the Academy for social and Human Studies, Department of economic and Legal Sciences, University of Chlef, issue 20, June 2018, P .248.

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of their application in the Algerian legislation"**

²⁹- We note that some legislations, including the Egyptian and Iraqi legislations, use the term cancellation instead of withdrawal, although both terms are means of administrative control over decisions, see this : -Majed Ragheb al-Hilu, Ibid., p. 149. And also:

- Arif Saleh Makhlef, Ibid., p. 321.

- Snaker Daoud Mohammed, administrative control of Environmental Protection a comparative analytical study, Zain legal and literary publications, Beirut, Lebanon, First Edition 2016, pp. 229-230.

³⁰- Maged Ragheb El Helou, Administrative Law, University Publishing House, Cairo, Egypt, 1994, p .549.

³¹- Ammar Awabdi, theory of administrative decisions between management science and administrative law, Dar Houma, Algeria, 2005, p .170.

³²- Majid Ragheb Al-Helou, environmental protection law in the light of Sharia, Ibid., p. 151

³³- Wafa azzeddine, Wahab Hamza, the mechanism of administrative licensing as a tool for Environmental Protection (model building permit), an article published in the Journal of Humanities, issued by the University of the brothers Mentouri, Constantine 1, Algeria, Vol.31, No. 03, December 2020, P. 428.

³⁴- Article 16 of the law 07-06, dated May 13, 2007, on the management, protection and development of green spaces, official gazette No. 31, issued on May 13, 2007 stated that:"every building permit is refused, if the preservation of green spaces is not guaranteed, and if the completion of the project leads to the destruction of vegetation ".

³⁵- Resolution of the State Council dated 29/09/2011, on the third chamber, File No. 064847, index No. 429 (unpublished) .

³⁶- Article 02 of the executive decree 91-175, dated May 28, 1991, defining the general rules of development and reconstruction, official gazette No. 26, issued on June 01, 1991, stipulates that:"if the construction is of a nature to affect safety or public security due to its location, size or use, the building permit or the land division license for construction can be refused or granted provided that the special provisions contained in the applicable laws and regulations are respected".

³⁷- Resolution of the State Council of 25/02/2010, on the third chamber, File No. 050169, index No. 226 (unpublished).

³⁸- Article 03 of the executive decree 91-175 stated that: "if the construction or configuration is planned in a territory exposed to natural hazards such as floods, drift, soil subsidence and sliding, earthquake and Cliff, the building or retail license can be refused or granted on special conditions required by applicable laws and regulations".

³⁹- Article 04 of Decree 91-175 stated that: "if, due to its location, constructions can be subjected to serious damage caused by noise in particular, a building permit may be refused or granted taking into account the special provisions contained in applicable laws and regulations".