جامعة ابن خلدون تيارت
كلية الحقوق والعلوم السياسية
قسم القانون العام

مطبوعة بداغوجية بعنوان:

الضبط الاداري البيئي

(مكتوبة باللغة الانجليزية)

موجهة لطلبة السنة الأولى ماستر بيئة

من إعداد:

الاستاذ المحاضر

سيهوب سليم

السنة الجامعية

2025-2024

جامعة ابن خلدون تيارت
كلية الحقوق والعلوم السياسية
قسم القانون العام

مطبوعة بيداغوجية
بعنوان الضبط الإداري البيئي
(مكتوبة باللغة الانجليزية)
موجهة لطلبة السنة أولى ماستر بيئة
من إعداد د سيهوب سليم

Introduction

With the recognition of environmental rights as constitutional rights[1], the role of the state and administrative authorities in environmental protection has been solidified. This role is explicitly outlined in environmental legislation, most notably Law 03-10 on environmental protection. At the core of this framework lies administrative regulation, which is one of the most crucial governmental functions in safeguarding the public interest and upholding the rule of law in modern states.

This study explores the regulatory function of administrative authorities in environmental governance, focusing on its legal foundations within the Algerian legal system. By examining this regulatory function, we aim to assess its significance in preserving environmental integrity and ensuring compliance with environmental laws.

The importance of this study is twofold—both scientific and practical. From a scientific perspective, analyzing administrative regulation in environmental matters allows us to understand the interaction between regulatory activities and environmental legislation. This interaction is essential in shaping regulatory practices, particularly in the field of environmental protection, where specialized regulatory mechanisms play a key role. This will be illustrated through the legal framework governing classified facilities, which serve as the primary mechanism for preventing pollution, as well as through specific regulatory measures embedded in various environmental laws.

From a practical standpoint, effective implementation of environmental legislation by administrative bodies requires a deep understanding of its objectives and enforcement mechanisms. Therefore, this study seeks to bridge the gap between academic knowledge and practical application, offering

[1]Law No. 16-01 of March 6, 2016 – Official Journal No. 14 of March 7, 2016 Presidential Decree No. 20-442 of December 30, 2020 – Official Journal No. 82 of December 30, 2020

valuable insights for policymakers, legal practitioners, and regulatory authorities

Study Plan :

Chapter One: The Legal Foundations and Distinctive Character of Administrative Regulation under Environmental law

Section 1 : The Legal Foundations of Administrative Regulation under Environmental law

Subsection 1: The Constitutional and Legislative Foundations for Environmental Protection within the Framework of Sustainable Development

Subsection 2 : Pollution: A Major Environmental Threat

Section 02 : Distinctive Character of Administrative Regulation under Environmental law

Subsection One : The Unique Nature of Administrative Regulation in Environmental Law

Subsection Two : The Functions and Main Objectives of Administrative Regulation in the Environmental Field

Chapter Two: Institutional and Legal Mechanisms of Environmental Administrative Policing

Section One: The Institutional Framework of Environmental Administrative Policing

Subsection One: The Exercise of Environmental Administrative Policing at the Central Level

Subsection 2: Exercise of Administrative Control at the Regional Level

Section 2: Mechanisms of Environmental Administrative Policing

Chapter One: The Legal Foundations and Distinctive Character of Administrative Regulation under Environmental law

The legal foundations of environmental policing lie in the recognition that environmental protection constitutes a matter of public interest. As such, environmental administrative policing (or environmental regulation) aims to serve two primary objectives: first, to prevent and control environmental pollution; and second, to promote and reinforce the principle of sustainable development .

To better understand this legal framework, it is essential to explore the interaction between the principles of administrative policing and those of environmental legislation. While administrative policing is traditionally associated with public order and safety, its adaptation in the environmental domain highlights a shift toward preserving environmental balance and anticipating future risks. This dynamic relationship between administrative authority and environmental law reveals both the complexity and necessity of legal mechanisms that respond effectively to ecological challenges in Algeria and beyond. .

Section 1 : The Legal Foundations of Administrative Regulation under Environmental law

The function of administrative police in environmental matters is based on the general interest, which in this context refers not only to the prevention of environmental harm but also to the active pursuit of goals such as the knowledge, protection, enhancement, restoration, rehabilitation, management, and preservation of the environment and its capacity to evolve, as well as the safeguarding of the essential services it provides. In

Algerian law, this broad and forward-looking interpretation of the general interest serves as the foundation for the public authorities' role in environmental protection. With this in mind, we will first examine how this principle is anchored in Algerian legal texts Subsection 1 , Before addressing the concept of pollution as one of the most significant threats to the environment Subsection 2 .

Subsection 1: The Constitutional and Legislative Foundations for Environmental Protection within the Framework of Sustainable Development

Environmental protection in Algeria has become a legal imperative rooted in both constitutional and legislative texts. The recognition of the environment as a matter of public interest has led to the incorporation of its protection into the country's fundamental legal frameworks. The Algerian Constitution acknowledges the right to a healthy environment and assigns the State the responsibility to safeguard natural resources for current and future generations. Alongside this, various legislative instruments have been developed to implement sustainable development principles, ensuring that environmental preservation goes hand in hand with economic and social progress.

We begin by defining the right to a healthy environment and the concept of sustainable development, as essential components of modern legal systems A. We will then move on to examine how these rights have been enshrined in constitutional and legislative frameworks, highlighting their growing importance in national and international law B.

A Definition of the right to the environment and sustainable development.

-Definition of the right to the environment

There is an ongoing legal and scholarly debate regarding the nature of the right to a healthy environment. The central

question is whether this right should be recognized as an independent, standalone human right, or whether it is merely an instrumental right—a prerequisite necessary for the enjoyment of already established human rights, such as the rights to life, health, food, or housing. This divergence in perspective has led to different legal approaches across global, regional, and national frameworks [2].

Despite this debate, there has been a growing tendency—both in national constitutions and international instruments—to recognize and affirm the right to a clean, healthy, and sustainable environment. Legally, this right ensures that individuals and communities are entitled to live in an environment that supports their health, dignity, and well-being. It also implies a corresponding obligation on states to take concrete actions to protect natural resources, prevent pollution, ensure sustainable development, and provide access to environmental justice.

In international law, this right is increasingly acknowledged, even though not yet universally codified as a standalone human right. The recent United Nations Human Rights Council resolution (2021) affirming the human right to a clean, healthy, and sustainable environment is a significant milestone and could pave the way for broader and more binding recognition.[3]

At the national level, many legal systems—including constitutional and legislative frameworks—have incorporated this right explicitly. It is often tied to principles of sustainable development, intergenerational equity, and environmental

[2] Ke Tang and Otto Spikers , The Human Right to a Clean, Healthy and Sustainable Environment ,Chinese Journal of Environmental law ,17/05/2022,

[3] Knox, John H., and Ramin Pejan (Editors). The Human Right to a Healthy Environment. Cambridge University Press, 2018.

justice, which reinforce the idea that environmental protection is not only a public interest but also a legal entitlement [4] .

Thus, while the legal form and scope of the right to a healthy environment continue to evolve, it is increasingly regarded as a core component of modern legal systems, reflecting the deep interdependence between environmental integrity and the fulfillment of human rights.

-Legal Definition of Sustainable Development

Sustainable development is a legal and policy concept that refers to development which meets the needs of the present without compromising the ability of future generations to meet their own needs. This concept was first internationally recognized in the 1987 Brundtland Report, titled *"Our Common Future"*, published by the World Commission on Environment and Development (WCED). It marked the emergence of sustainable development as a guiding principle of international environmental law and policy [5].

Legally, sustainable development involves a balance between three interdependent pillars:

1. Economic growth,
2. Social equity, and
3. Environmental protection.

These three pillars must be integrated into national and international planning, legal frameworks, and decision-making processes.

---

[4] Atapattu, Sumudu. "The Right to a Healthy Life or the Right to Die Polluted?: The Emergence of a Human Right to a Healthy Environment Under International Law." Tulane Environmental Law Journal, vol. 16, no. 1, 2002, pp. 65–126.

[5] Bosselmann, Klaus The Principle of Sustainability: Transforming Law and Governance Routledge, 2016 (2nd edition

The concept has since been incorporated into several key international legal instruments, including:

- The 1992 Rio Declaration on Environment and Development, which promotes the integration of environmental concerns into development planning.
- The Agenda 21, a comprehensive plan of action for sustainable development.
- The 2030 Agenda for Sustainable Development adopted by the United Nations in 2015, which includes 17 Sustainable Development Goals (SDGs). These goals have provided a concrete, legally influential framework for governments, institutions, and businesses worldwide.

Sustainable development also plays a critical role in environmental governance and has been recognized in national constitutions, environmental charters, and legislation in many countries. It serves not only as a policy directive but also as a legal principle that courts and lawmakers use to evaluate the compatibility of economic or industrial projects with long-term environmental and social concerns.

Additionally, the principle of sustainable development is closely tied to the notion of intergenerational equity, which is increasingly cited in legal doctrines and judicial decisions as a foundation for ensuring fairness between current and future generations in the use and conservation of natural resources.

In summary, sustainable development is not merely an aspirational idea; it is a legally embedded principle that requires states and stakeholders to harmonize environmental protection with social justice and economic progress. It is both a legal obligation and a guiding norm in national and international legal orders [6].

---

[6] Dernbach, John C. Stumbling Toward Sustainability, Environmental Law Institute (ELI Press), 2002

B The legislative and constitutional enshrinement of the right to the environment"

The right to a healthy and balanced environment has increasingly gained recognition within both national and international legal frameworks. This right has been progressively enshrined through constitutional provisions and legislative instruments, reflecting a growing awareness of the environmental challenges faced by modern societies. By embedding environmental rights in legal texts, states affirm their commitment to environmental protection, sustainable development, and intergenerational equity. This dual enshrinement—constitutional and legislative—serves as a legal foundation for holding both public authorities and private actors accountable for environmental harm.

The Algerian Constitution, as amended in 2020 (following the 2016 amendment), reaffirmed and expanded the recognition of the right to a healthy environment and its protection. This recognition appears in both the preamble and the substantive provisions of the Constitution, making it one of the most significant constitutional developments in Algerian environmental law. Notably, the 2020 amendment elevated environmental concerns by incorporating them into the composition of a constitutional advisory body, the "National Economic, Social, and Environmental Council."

In the preamble, the 18th paragraph acknowledges the population's concern with environmental degradation and climate change, emphasizing the importance of rational use and preservation of natural resources for the benefit of future generations. The Constitution links environmental protection directly with broader global challenges such as pollution, global warming, and biodiversity loss, thus highlighting the duty to safeguard the environment as a commitment toward intergenerational equity.

Substantively, Article 21 sets out the State's obligations in ensuring environmental protection, including safeguarding agricultural land, ensuring a healthy environment, promoting environmental awareness, and rational use of natural resources. It also commits the State to act against polluters. Article 64 specifically provides that every citizen has the right to a healthy environment in the context of sustainable development, further cementing the constitutional status of environmental rights [7].

The 2020 amendment also integrated the environmental dimension into constitutional institutions by expanding the scope of the "National Economic and Social Council" to become the National Economic, Social, and Environmental Council. Defined under Article 209, this body is tasked with advising the President and the government on economic, social, and now environmental matters, ensuring that environmental concerns are part of national policy-making at the highest level.

In France, the constitutional recognition of environmental rights came with the adoption of the Charter for the Environment (2004), which was incorporated into the French Constitution in 2005. This charter recognizes the right of every person to live in a balanced and healthy environment (Article 1) and affirms the duty of individuals and the State to protect and improve the environment. It introduces principles such as the precautionary principle, the polluter-pays principle, and sustainable development as constitutional values. The Charter, together with the Declaration of the Rights of Man and of the Citizen (1789) and the 1958 Constitution, forms the constitutional bloc of France, meaning it is fully enforceable by courts, including the Constitutional Council [8].

Thus, both Algeria and France have constitutionally entrenched the right to a healthy environment, albeit with

[7] Ben Dahou Nour Eddine, "The Constitutional Enshrinement of the Right to the Environment: A Study in Light of the 2020 Constitutional Amendment," Journal of International Law and Development, No. 02, pp. 11–15

[8] Marie-Anne Cohende, Constitutional Law of the Environment: Comparative Perspectives , Mare & Martin , 13 May 2021 .

different legal instruments and historical paths. Algeria emphasizes this right in both the preamble and substantive constitutional provisions, while France incorporates it through a dedicated environmental charter, granting environmental concerns a comparable constitutional weight.

- The legislative enshrinement of the right to a healthy environment in Algeria and France reflects differing legal traditions and approaches to environmental protection.

In Algeria, Law No. 03-10 of 2003 serves as the foundational legal framework for environmental protection. This law establishes fundamental principles such as the preservation of biodiversity, the prevention of pollution, and the promotion of sustainable development. It emphasizes the integration of environmental considerations into sectoral policies and encourages public participation in environmental decision-making. The law also outlines mechanisms for environmental management, including the establishment of environmental standards, planning of environmental actions, and evaluation of environmental impacts of development projects.

In contrast, France's approach to environmental protection is anchored in the constitutional recognition of environmental rights. The 2004 Environmental Charter, integrated into the French Constitution in 2005, affirms the right of every person to live in a balanced and healthy environment. It introduces key principles such as prevention, precaution, and the polluter-pays principle. The Charter mandates that public policies promote sustainable development and that environmental education and information be accessible to all citizens [9].

While both Algeria and France recognize the importance of environmental protection, their legal frameworks differ in scope and emphasis. Algeria's Law No. 03-10 provides a comprehensive statutory basis for environmental management,

[9] Raphaël Romi, Gaëlle Audrain-Demey, Blanche Lormeteau , Environmental Law and Sustainable Development, LGDJ, Précis Domat Collection , 11th Edition ,2021 .

focusing on practical implementation and sectoral integration. France's Environmental Charter, by embedding environmental rights within the Constitution, elevates environmental protection to a fundamental right, influencing all areas of law and policy.

These differences reflect the broader legal cultures of the two countries. Algeria's civil law tradition emphasizes codified statutes and administrative regulation, while France's constitutional framework allows for a more integrated approach to fundamental rights, including environmental rights. Despite these differences, both countries demonstrate a commitment to environmental protection through their respective legal systems.

Subsection 2 : Pollution: A Major Environmental Threat

Comparative legal systems offer various sector-based definitions of pollution, yet a broader consensus aligns with the definition adopted by Algerian law. Legally, pollution entails two fundamental elements: a *material criterion*, involving the introduction of a pollutant into the environment, and a *teleological criterion*, which connects pollution to a legally protected interest, such as public health or ecosystem integrity A . The concept of pollution is closely linked to the notion of nuisance; therefore, it is necessary to clarify this concept B .

A The Material Criterion: Human-Originated Introduction of Pollutants

For an act to qualify as pollution under legal frameworks, it must stem from human activity. Natural phenomena are generally excluded unless human intervention triggers or intensifies the effect. The pollutant's type and quantity are also critical in determining the presence of pollution, with laws assessing both the substance and its concentration in the environment.

Across comparative legal systems, pollution typically results from harmful emissions—whether chemical substances or energy—introduced into the natural environment. Algerian legislation mirrors this notion by defining pollution as a "direct or indirect alteration of the environment." The origin of pollution is thus consistently linked to anthropogenic sources, notably agriculture, industry, and domestic life[10].

Agricultural runoff, due to excessive fertilizer and pesticide use, causes nutrient loading in water bodies, leading to eutrophication and declining water quality[11]. Industrial wastewater, often rich in toxic chemicals and heavy metals, is another significant source when improperly treated. Additionally, untreated domestic sewage contributes pathogens and organic waste to aquatic systems, exacerbating health risks and ecological damage [12].

Legal systems—including Algerian and French law—recognize indirect and accidental pollution. These occur when environmental harm arises not from direct discharge but through secondary effects or intermediate vectors, such as leaking storage tanks or malfunctioning wastewater systems. Courts have acknowledged such instances, as in the *Erika* oil spill case, affirming that even environmental damage indirectly caused by natural events—like an earthquake affecting industrial

---

[10] Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources
Official Journal Reference: OJ L 375, 31 December 1991, pp. 1–8
Link: EUR-Lex Document 31991L0676

Law No. 96-1236 of 30 December 1996 on Air and the Rational Use of EnergyOfficial Journal Reference: Journal Officiel de la République Française, 31 December 1996
Link: Légifrance - Law No. 96-1236

[11] Ismail Najm al-Din Zankana, "Environmental Administrative Law: A Comparative Analytical Study", Dar Al-Halabi Legal Publications, 2012, p. 67.

[12] https://online.ecok.edu/articles/causes-of-water-pollution (consulted on 09/04/2025)

infrastructure—can fall within the legal definition of pollution[13] .

Experts such as Jean-Pierre Beurier emphasize that the "indirect introduction" of pollutants still engages legal responsibilities, particularly regarding emergency response and damage mitigation. Gabriel Ullmann also notes the role of secondary pollutants, like ozone, which form through chemical reactions involving primary emissions. These complexities underscore the need for comprehensive legal definitions that address both direct and indirect pollution mechanisms.

Pollution, by definition, involves the introduction of "substances or energy" into the natural environment—a broad expression that encompasses all types of pollutants. This includes tangible elements such as solid, liquid, or gaseous substances, as well as various forms of energy like noise, vibrations, heat, and radiation, and of course, waste in its many forms[14] . This refers specifically to what Law 01-19 classifies as special and hazardous waste. These wastes, due to their composition or the harmful properties of the substances they contain, are likely to pose a threat to public health and/or the environment.

Hazardous waste may include materials that are toxic, corrosive, flammable, explosive, or biologically dangerous, and their improper management can result in serious ecological degradation and long-term health risks. For this reason, Law 01-19 establishes strict regulatory controls over their generation,

[13] Versailles Court of Appeal, 8 January 2009, Case No. 07/02442 Court of Cassation, Second Civil Chamber, 27 May 1999, Case No. 97-19.704

[14] Gabriel Ullmann, Classified Installations: Two Centuries of Legislation and Nomenclature, Volume 1 – The Founding Decree of October 15, 1810, and the Law of December 19, 1917: The Progressive Protection of Third-Party Rights , Cogiterra Editions , 2016 .

storage, transport, treatment, and disposal, ensuring that such waste is handled in a way that minimizes its potential harm[15].

However, in some legal texts, the nature of the pollutant is further specified. Regulations may classify pollutants based on their characteristics—physical, chemical, biological, or other scientific distinctions—depending on the context and the specific environmental threat they represent. This classification is the result of scientific research and analysis, as exemplified in the work of François Ramade[16]. His approach takes into account not only the environmental medium affected (such as air, water, or soil), but also the type of pollutants involved—whether physical, chemical, or biological—as well as the specific nature of the pollution Examples of such categories include:

- Thermal pollution,
- Hydrocarbon contamination,
- Pesticide-related pollution, and
- Non-volatile synthetic organic compounds, among others.

This multidimensional framework allows for a more nuanced understanding of pollution and is essential for the development of effective regulatory and remediation strategies.

Moreover, one might wonder whether the pollutant nature depends on the quantitative criterion that refers to a pollution threshold. Here, the pollutant nature of a substance is linked to exceeding a threshold established to prevent the occurrence of ecological damage. Thus, not every emission necessarily constitutes pollution. There is pollution when the substance released into the environment exceeds the discharge or environmental quality standards set by the authorities. According to Jean-Pierre Beurier, "the question of whether it

[15] Law No. 01-19 of December 12, 2001, on the Management, Control, and Disposal of WastePublished in: Official Journal of the People's Democratic Republic of Algeria, No. 77, December 15, 2001

[16] François Ramade , Encyclopedic Dictionary of Pollution: Pollutants – From the Environment to Humans, Ediscience International ,2000 .

can be considered as causing pollution is of a quantitative nature: there is pollution if it reaches a certain level of significance."[17]

This quantitative approach to pollution is complemented by a qualitative perspective, particularly when dealing with extremely hazardous substances or the cocktail effect arising from the interaction of various pollutants. Additionally, the quantitative method often fails to address certain types of pollution, such as diffuse pollution, where the precise origin remains unclear, or pollution types for which no specific regulatory standards have been established [18].

This highlights the need for a more comprehensive understanding of pollution, one that incorporates both measurement and the complexity of chemical interactions to accurately assess environmental and health impacts .

This broad conception of pollution prevails in international law, as emphasized by Nicolas de Sadeleer[19]. Indeed, most definitions in international law adopt an expansive interpretation of the notion of polluter. For instance, the 1975 Community Recommendation defines the polluter as "someone who directly or indirectly degrades the environment or creates conditions leading to its degradation." Numerous international conventions or European Union texts also focus on environmental degradation without specifying thresholds. This understanding aligns with the concept of environmental impact or damage. Pollution is then viewed as a specific form of harm resulting from the introduction of substances or energy into an environment. This perspective holds true when addressing harm after its occurrence, particularly during reparations, if feasible.

[17] BEURIER J.-P International Environmental Law, Éditions A. Pedone February 1, 2017, p. 135.

[18] Adeline Meynier , Reflections on Concepts in Environmental Law , Jean Moulin Lyon 3 University , December 11, 2017 .

[19] Nicolas de Sadeleer, The Principles of the Polluter Pays, Prevention, and Precaution: An Essay on the Genesis and Legal Scope of Certain Principles of Environmental Law p. 71.

However, unlike damage, the concept of pollution also carries a preventive dimension in legal contexts. Addressing various pollution phenomena (water, air, soil pollution, etc.) aims to identify pollution sources to regulate and plan human activities that cause them[20] .

The ecological scale at which pollution exerts its effects raises pertinent questions: does it impact individual organisms, species populations, ecosystems, or the biosphere as a whole? Notably, legal definitions of pollution often do not specify a particular territorial scope. Instead, the extent and severity of the pollution event dictate the applicable legal framework. This approach minimizes the gap between factual occurrences and legal responses, allowing objective realities to shape legal considerations. Consequently, the law can systematically address pollution by regulating human activities responsible for environmental degradation.[21]

Through the descriptive concept of pollution, legal definitions primarily focus on the harmful and toxic effects on the environment. This approach reveals not only a material criterion—the introduction of a substance into the environment—but also a teleological (goal-oriented) criterion, centered on the damage caused to protected interests.

Pollution is therefore legally recognized because of the harm it causes to specific protected values. According to the Algerian legislator, a polluting act must result in a situation that is harmful to human health, safety, well-being, or that affects flora, fauna, air, atmosphere, and both public and private property.

In the specific case of water pollution, the law stipulates that it must pose risks to human health, cause harm to terrestrial and aquatic flora and fauna, damage the aesthetic value of

[20] Adeline Meynier thése précitée , p 266 .
[21]Éric Naim-Gesbert , General Environmental Law: Introduction to Environmental Law, LexisNexis 4th Edition, p. 243.

natural sites, or interfere with any normal use of water resources .[22]

A hierarchy can be observed among the various protected interests. Human health is explicitly identified as the primary objective to be safeguarded. It is followed by other important concerns, such as the protection of ecosystems, biodiversity, environmental quality, and the preservation of public and private property.

This prioritization reflects the legal and ethical emphasis on preserving human life and well-being, while still acknowledging the broader importance of maintaining ecological balance and sustainable environmental use [23].

Beyond the specific interests enumerated in legal texts, pollution is fundamentally regarded as a violation of public order. It can affect both general public order, by threatening public safety and sanitation, and special public order, when a pollution threshold is exceeded, thereby triggering the intervention of specialized regulatory or police measures.

This dual dimension underscores the fact that environmental harm is not only a technical issue, but also a matter of social stability and legal responsibility, calling for both preventive and corrective mechanisms within the legal framework

Pollution legally refers to the introduction of substances or energy into the natural environment, encompassing a wide range of pollutants—solid, liquid, or gaseous materials, as well as noise, heat, vibrations, radiation, and various forms of waste. Of particular concern is hazardous waste, which poses significant threats to health and the environment due to its toxic,

[22] Article 02 de la loi 03-10 précitée

[23] BEURIER J.-P., International Environmental Law, op. cit., p. 135. Only Article L. 219-8 of the Environmental Code, which concerns marine pollution, does not list health as the primary objective to protect, but rather as a secondary one, following environmental protection.

flammable, corrosive, or infectious nature. Algerian Law 01-19 specifically regulates such waste, imposing strict controls over its production, storage, transport, and disposal [24].

Legal definitions of pollutants may vary depending on their physical, chemical, or biological nature and the specific environmental risks they pose. François Ramade's typology includes categories such as thermal pollution, hydrocarbon contamination, and pesticide-related pollutants, offering a nuanced understanding based on both the affected medium and the type of pollutant.

A quantitative threshold is often used to determine when a substance becomes a pollutant. Pollution occurs when environmental discharge limits are exceeded. However, this approach may not capture all harmful effects—particularly with hazardous substances or combined chemical interactions (the "cocktail effect"). Moreover, diffuse pollution, which lacks a clear origin, remains difficult to address under strict quantitative standards.

International law often favors a broader view. Definitions by Nicolas de Sadeleer and others focus on environmental degradation, regardless of thresholds. For example, the 1975 Community Recommendation defines a polluter as anyone who directly or indirectly causes environmental harm. Many international conventions follow this broader approach, framing pollution as both a harmful consequence and a preventable legal concern.

The impact of pollution can be assessed across various ecological levels—from individual organisms to entire ecosystems or the biosphere. Although legal definitions rarely specify territorial scope, the scale and severity of pollution influence how the law responds. This enables legal systems to adapt to real-world conditions when addressing environmental degradation.

[24] Law No. 01-19

In Algerian law, pollutants must cause harm to health, biodiversity, ecosystems, or public/private property to qualify legally. Water pollution, for instance, is recognized when it endangers health, harms flora/fauna, degrades natural sites, or interferes with water use.

Human health is prioritized, followed by ecosystem protection, environmental quality, and property preservation. This hierarchy reflects both legal and ethical priorities. Moreover, pollution is not only a technical matter but also a violation of public order, justifying both preventive and corrective state intervention.

B) Distinction between pollution and nuisance.

The distinction between pollution and nuisance is firmly established in both legal doctrine and Algerian law, with each concept having its own specific implications for environmental regulation and legal liability. While pollution generally refers to long-lasting environmental damage caused by human activity, nuisance tends to address more immediate and often temporary disturbances to public or private interest .

1 Distinction in legal doctrine

It is important in legal doctrine to distinguish between pollution and a closely related concept: nuisance. According to Gabriel Ullmann, the key distinction lies in the persistence or long-term effects of pollution, even after its original source has disappeared. He points out that *"the effects of pollution continue even when the source that caused it has vanished."* A clear example of this is oil spills, where pollution can persist for many years after the initial accident or shipwreck. Similarly, radioactive contamination may last for thousands of years, far beyond the presence of the original emission.

The same applies to water or air pollution caused by certain substances released into the environment. Even after the

discharge has stopped, their harmful effects can continue for a long time.

In contrast, nuisances are characterized by their short-lived impact. According to Ullmann, their effects typically end immediately or shortly after the source disappears. For example, noise nuisance ceases once the sound is no longer heard. Visual nuisances disappear when the disturbing element is no longer visible, and light pollution ends as soon as the lights are turned off. Odor nuisances may linger slightly longer, but they usually fade quickly as the unpleasant substances disperse.

2 Distinction in legislation

Law 03-10 uses the term "nuisance" and dedicates Title IV to it. This includes two types of provisions: one aimed at protection against chemical substances, and the other related to protection against acoustic nuisances. However, neither of these two categories of provisions is connected to water resources. Furthermore, water legislation uses the term "pollution," thereby establishing a distinction between pollution and nuisance with regard to water. Article 44 of Law 05-12 states that the discharge of effluents, spills, or the deposit of any type of material that does not present toxicity or nuisance in public water bodies is subject to authorization [25] .

It should be noted that in comparative law, a clear distinction between the concepts of pollution and nuisance is not always maintained in positive law. For example, environmental law has long recognized that waste management can lead not only to acoustic or olfactory nuisances but also to marine pollution or soil pollution. More recently, Article L. 219-8 of the French Environmental Code regarding the marine environment treats noise or any "sound sources" as a form of pollution. Similarly, regarding the definition of atmospheric pollution, Gabriel Ullman observes that the Declaration of Principles on

[25] Law No. 05-12 of August 4, 2005, relating to water.
Published in the JORADPNo. 60, dated September 4, 2005.

the Fight Against Air Pollution, adopted by the Council of Europe on March 8, 1968, oddly links pollution and nuisance [26]. The text states that "air pollution occurs when the presence of a foreign substance or a significant change in the proportions of its components is likely to cause harmful effects... or create a nuisance or discomfort." Similarly, the Air and Rational Use of Energy Act of December 30, 1996, states that pollution corresponds to the introduction of substances that have harmful consequences on health, nature, climate change, and property, and that may "cause excessive olfactory nuisances [27]."

Section 02 : Distinctive Character of Administrative Regulation under Environmental law

In this section, we aim interaction with the principles and requirements of environmental legislation. Administrative regulation is a well-established concept in classical administrative law, yet it operates within a legal framework that increasingly incorporates environmental norms, which are relatively modern. This raises a crucial question about the extent to which administrative law principles align with environmental law provisions and how this interaction enhances the effectiveness of environmental protection within the regulatory framework .

To address this issue, We will first examine the unique characteristics of environmental administrative regulation (Subsection One), followed by an exploration of its primary functions and fundamental objectives (Subsection Two).

Subsection One : The Unique Nature of Administrative Regulation in Environmental Law

[26] ULLMANN G., Classified Installations. Two Centuries of Legislation and Nomenclature, vol. 1, op. cit., p.

[27] Article 2 of French Law No. 96-1236 of December 30, 1996, known as the "Air and Rational Use of Energy Act"

Understanding administrative regulation within the context of environmental legislation requires an exploration of the reciprocal influence between regulatory authority and environmental legal provisions. To achieve this, we will begin by recalling the general definition of administrative regulation before distinguishing it from related legal concepts A. We will then highlight its defining characteristics B .

A : Defining Administrative Regulation and Differentiating It from Related Concepts

Administrative regulation stands out as a distinct governmental function, particularly in the environmental sector, where its role differs from other forms of public intervention. This distinction will become clearer as we first define administrative regulation (1) and then differentiate it from similar legal concepts (2).

1: Defining Administrative Regulation in the Environmental Context

The concept of administrative regulation can be examined from two perspectives: the institutional (organizational) perspective, which focuses on the authorities responsible for regulatory enforcement, and the functional perspective, which considers its objectives and methods. Both perspectives are closely linked to environmental governance, as we will explore before proposing a comprehensive definition of administrative regulation in the environmental domain

From an organic perspective, administrative regulation is exercised by various governmental bodies and administrative authorities responsible for maintaining public order. The focus here is on administrative authorities, as they are the entities that perform regulatory functions [28].

[28] Mahir Salah Alaoui Djoubiri , Principles of Administrative Law: A Comparative Study, Ministry of Higher Education and Scientific Research ,2009 ,p 75 .

When applying this perspective to environmental regulation, a fundamental question arises: Should administrative regulation in the environmental field be limited to specialized regulatory bodies, such as the Ministry of Environment and Renewable Energy? Or does it extend to all administrative authorities involved in environmental matters, including those responsible for general administrative regulation? Since general administrative authorities play a crucial role in environmental protection, as we will demonstrate, the organic perspective must encompass all administrative bodies that exercise regulatory functions related to environmental protection.

Accordingly, administrative regulatory authorities in environmental governance can be categorized as follows:

-Regulatory Authorities at the Central Level

-General administrative regulatory authorities: The President of the Republic, the Prime Minister (or Head of Government), and the Minister of Interior and Local Government [29] .

-Specialized administrative regulatory authorities: The Ministry of Environment and Renewable Energy, which holds primary responsibility for environmental regulation.

- Regulatory Authorities at the Regional Level

[29] The President of the Republic is the guarantor of national independence, unity, and territorial integrity. He ensures respect for the Constitution and the proper functioning of public authorities." (Article 91 – Algerian Constitution) "The Prime Minister is responsible for implementing laws and ensuring the proper functioning of the public administration." (Article 111) "He coordinates the actions of the government, ensures internal security and public order, under the direction of the President."

Regional authorities: The Wali (Governor), Delegate Wali, Deconcentrated Services, and the President of the Municipal People's Assembly [30].

It is important to note that governors and delegate governors primarily exercise general administrative regulation but also hold some specialized regulatory powers. In contrast, municipal council presidents act as general regulatory authorities. On the other hand, deconcentrated services, particularly environmental services, represent specialized regulatory bodies that operate as part of the governorate administration, as defined by provincial law .

From a functional perspective, the focus shifts to the regulatory activity itself, which aims to protect the higher interests of society, commonly referred to as public order. Within this framework, we distinguish between:

Traditional public order, which serves as the primary domain of general administrative regulation.

Specialized regulatory systems, established by specific legal provisions that grant authority to specialized administrative regulatory bodies. These will be examined in further detail.

Legal scholars define administrative regulation as the set of measures and decisions taken by administrative authorities to safeguard public order. Through administrative regulation, authorities organize individual freedoms within society, ensuring that such freedoms are not absolute but rather subject to legal constraints established by the legislature. The enforcement of these constraints falls under the responsibility of administrative bodies[31] .

[30] Communal Code – Law No. 11-10 of June 22, 2011 and Wilaya Code – Law No. 12-07 of February 21, 2012

[31] Dr. Mohamed Reda in his book Administrative Law, published by Dar Al-Nahda Al-Arabia, 2003, on page 315.

This principle is clearly outlined in Article 34 of the Algerian Constitution, which states that rights, freedoms, and guarantees may only be restricted by law and for reasons related to maintaining public order, security, and national identity, as well as for the protection of other constitutionally enshrined rights and freedoms.

Thus, it becomes evident that all decisions and restrictions imposed by regulatory authorities—whether general or specialized—must be legally justified. These authorities cannot impose restrictions beyond what is prescribed by legislation, which itself must adhere to the constitutional principles outlined in Article 34. Additionally, any regulatory measures must respect the essence of rights and freedoms and uphold legal security.

Based on this constitutional framework, we can define environmental administrative regulation as:

The definition we have presented aligns with the view of one researcher who proposed an expanded understanding of environmental administrative policing According to this perspective, environmental administrative police refers to the set of measures and restrictions imposed by public authorities on individuals with the aim of preserving the environment and protecting it from harm and potential threats [32].

It is, therefore, a preventive mechanism that embodies the proactive protection of the environment, through the adoption of appropriate actions to safeguard protected areas, in accordance

[32] Charles-Édouard Minet , Law of Administrative Police, Éditions Lextenso, 2019 , page 45 . Minet states: "Environmental administrative police encompasses the preventive actions undertaken by administrative authorities to ensure the protection of the environment, public health, and safety, through regulations, authorizations, and controls aimed at preventing ecological disturbances."

with environmental law. In other words, it encompasses all preventive measures entrusted to specialized administrative bodies, aimed at preventing environmental damage in all its forms, especially pollution and resource depletion.

These measures may be precautionary—taken in advance to avoid risk—or deterrent—designed to discourage environmentally harmful behavior. From this, it can be concluded that environmental administrative policing represents a field of public authority intervention whose primary goal is to restore environmental balance, maintain ecological integrity, and shield the environment from all potential harm.

These measures may be precautionary—taken in advance to avoid risk—or deterrent—designed to discourage environmentally harmful behavior. From this, it can be concluded that environmental administrative policing represents a field of public authority intervention whose primary goal is to restore environmental balance, maintain ecological integrity, and shield the environment from all potential harm.

2 Distinguishing Environmental Administrative Regulation from Related Concepts

Environmental administrative regulation is distinct from judicial regulation and public service management, yet it maintains a relationship of partnership and cooperation with both.

2-1 The distinction between administrative police and judicial police

Although administrative police and judicial police are distinct in their legal foundations and operational roles, they work in close complementarity to ensure effective legal protection of the environment. Their collaboration reflects a necessary balance between preventive regulation and punitive

enforcement, combining proactive oversight with the power of judicial sanction to address environmental harm comprehensively.

2-1-1 The aspects of difference between administrative police and judicial police

The distinction between administrative and judicial regulation is easily made by considering their respective objectives.

-Judicial regulation has a punitive nature, as it aims to investigate crimes, identify perpetrators, and refer them to the competent judicial authority in accordance with legal procedures. In other words, judicial regulation is applied after an offense or violation has occurred [33].

-Administrative regulation, on the other hand, is characterized by its preventive nature, as its primary goal is to prevent environmental harm or threats before they occur [34].

A potential source of confusion arises when the same authority is responsible for both administrative and judicial regulation. This is the case with the President of the Municipal People's Assembly (PMPA), who, in addition to being an administrative regulatory authority, also holds the status of a judicial officer, as stipulated in Article 92 of the Municipal Code (Law 11-10) and Article 15 of the Code of Criminal Procedure. The Governor (Wali) also plays a dual role, albeit to a lesser extent, as he only exercises judicial regulatory authority in cases of felonies or offenses against state security and in urgent situations, as specified in Article 28 of the Code of Criminal Procedure.

The key to resolving this ambiguity lies in focusing on the purpose of the authority's actions:

---

[33] Ammar BoudiafExplanation of the Municipal Law Algeria: Jisr Publishing, 2012. Referenced on page 253.

[34] Council of State, May 11, 1951, Consorts Baud

- If the goal is to preserve public order, then the action is classified as administrative regulation and is governed by administrative law.
- If the goal is punitive, then the action falls under judicial regulation and is subject to criminal procedural law.

2-1-2 The cooperation between environmental administrative police and judicial police in Algerian law

While the distinction between environmental administrative police and judicial police remains well-defined in legal theory, in practice, these two branches operate in close coordination to achieve effective environmental protection. Administrative regulation plays a preventive role, taking proactive measures to deter environmental harm before it occurs. The more efficiently these administrative mechanisms function—through permits, inspections, and oversight—the less need there is for judicial intervention. However, when administrative decisions are violated, the judicial police step in to enforce compliance through penal sanctions. This interplay ensures that environmental norms are not only established but also respected.

The legal framework reinforces this collaboration. Article 439 of the Penal Code provides general criminal protection to administrative regulations, thereby granting judicial authority the means to uphold these preventive measures. Nonetheless, the relatively light penalties foreseen in this general provision may limit their deterrent effect. To address this, environmental legislation—most notably Law No. 03-10 on Environmental Protection—introduces stricter and more targeted criminal sanctions. This law criminalizes a broad range of environmental offenses, particularly those linked to the operation of classified establishments, reinforcing the role of judicial authorities in backing administrative enforcement with meaningful consequences.

2-2 The Relationship between Administrative Policing and Public Service

While affirming the independence of administrative police and public service as distinct legal institutions, it is equally important to highlight the partnership and complementarity between them in achieving environmental objectives. This cooperation allows for a more coherent and effective approach to environmental protection, where regulatory authority and public service delivery operate in concert.

2-2-1 The doctrinal debate over the independence of administrative police from public service

There is an ongoing legal debate regarding the precise nature of administrative policing, particularly in the environmental field. Some scholars view it as merely a form of public administrative service, arguing that its primary objective—preserving public order—naturally aligns with the broader goals of public service. Others, however, contend that administrative policing is entirely distinct, possessing its own legal identity and specific characteristics that justify its separation from the concept of public service. It is this latter position that we adopt, recognizing the independent legal framework and operational logic that define administrative policing. Nevertheless, the assertion of this independence does not preclude the close and practical cooperation that often exists between administrative police functions and public services, especially in matters concerning environmental protection.

Proponents of the first view, such as the Egyptian jurist Majed Ragheb Al-Hilu, regard administrative policing as a particular type of public service. He maintains that, despite its unique features, policing remains fundamentally connected to the broader administrative apparatus that ensures the well-being and order of society. In his legal writings, Al-Hilu even dedicated a separate chapter to administrative policing, yet continued to place it under the umbrella of public services,

arguing that its role in upholding public order harmonizes with the essential objectives of public administration. This perspective also finds support in French legal thought, notably in the work of Rémi Radiguet, who, in his doctoral dissertation on public environmental services, classified activities such as air protection, atmospheric regulation, and noise pollution control within the scope of public environmental services.

Adopting this view carries important implications for how environmental administrative policing is conceived and implemented. One consequence is a semantic shift: the function may more accurately be labeled an "Environmental Administrative Policing Service," emphasizing its dual nature as both a sovereign regulatory function and a public service. However, this classification risks diluting the essential features of administrative policing—its regulatory authority, preventive character, and coercive powers. By subsuming it within the broader concept of public service, there is a danger that its binding and authoritative role in enforcing environmental law may be overshadowed by service-oriented logic, thereby weakening its capacity to act as a decisive instrument of environmental governance.

Having considered the divergence between the two perspectives, we firmly adopt the view that draws a clear distinction between administrative policing and public service. While both contribute to the functioning of the administrative state, their legal foundations, objectives, and operational modes are fundamentally different. In this regard, the arguments advanced by legal scholars such as Jean Rivero and Jean Waline are particularly compelling. They emphasize that administrative policing cannot be reduced to a mere extension of public service, even though they may appear interconnected in practice. Jean Rivero, in particular, identifies a structural and functional distinction between the two: public service is primarily concerned with providing concrete and evolving services that respond to the needs of citizens in a given time and place, while administrative policing is inherently normative and coercive. It

is not designed to deliver services but rather to impose necessary restrictions on individual freedoms in order to preserve public order.

The regulatory nature of administrative policing, with its focus on anticipation and prevention of disturbances, underscores its unique legal status. Unlike public service, which is governed by principles of continuity, adaptability, and equality, administrative policing operates through binding measures such as permits, prohibitions, and controls, all aimed at safeguarding collective interests. Its purpose is not to serve but to secure. Viewing it through the lens of public service risks conflating distinct legal categories and underestimating the normative power that characterizes administrative policing, particularly in sensitive areas like environmental regulation. Thus, distinguishing it as an autonomous legal institution is essential not only for theoretical clarity but also for ensuring the effectiveness of its mission in maintaining public order.

2-2-2 The cooperative relationship between administrative police and public service in the environmental field

Although administrative policing and public services are distinct in both their legal nature and institutional functions, their interaction in the field of environmental protection reveals a strong and necessary cooperation. In Algerian law, administrative police powers are enshrined in various legal texts that empower authorities to prevent disturbances to public order in its environmental dimension. Notably, Law No. 03-10 of July 19, 2003 on Environmental Protection within the Framework of Sustainable Development establishes a legal basis for environmental policing measures, including pollution monitoring, industrial activity oversight, and enforcement of environmental standards. Similarly, the Municipal Code (Law No. 11-10 of June 22, 2011) and the Wilaya Code (Law No. 12-07 of February 21, 2012) outline the responsibilities of local authorities in ensuring public hygiene, environmental safety,

and ecological balance—functions that straddle both administrative police and public service.

Administrative police measures alone, however, are insufficient to address complex environmental challenges. These measures often depend on the material and logistical infrastructure provided by public services. For instance, efforts to combat urban pollution or control natural risks such as flooding require both regulatory acts—like zoning laws or industrial emission controls—and the physical presence of services such as waste collection, stormwater drainage, and reforestation programs[35] . These are public functions funded, maintained, and operated as part of the state's commitment to service continuity and public interest.

French administrative law provides a compelling model of this synergy. The jurisprudence of the Conseil d'État, particularly in cases such as *Commune de Morsang-sur-Orge* (1995), emphasizes the importance of public order in its moral and environmental dimensions, which administrative police are tasked to protect. Additionally, environmental legislation in France, such as the Code de l'environnement, assigns local authorities both regulatory responsibilities and service obligations—for example, in waste management and water purification—thereby blurring the lines between police action and public service provision. In urban contexts, *Plans Locaux d'Urbanisme* (PLU) and environmental impact assessments serve as joint tools where administrative police powers and public service logistics converge to ensure sustainable land use and environmental safety.

This integration of functions highlights the fluid coexistence of administrative policing and public service in environmental governance. Legal provisions in both Algerian and French systems affirm that while each framework retains its autonomy, their joint operation is vital to achieving comprehensive environmental protection. Regulatory oversight

[35] Jean Rivero & Jean Waline, General Administrative Law, Dalloz, latest edition

gives authority and direction, while public services provide the necessary implementation and continuity. The result is a dynamic partnership that enables the state to not only enforce environmental standards but to actively build and sustain the systems that uphold them [36].

B The characteristics of administrative police in the environmental field

The classical characteristics of administrative policing—such as its preventive nature, generality, and discretionary authority—interact dynamically with environmental legislation. This interaction often leads to the reinforcement of certain features while softening others, in order to better align with the objectives of environmental protection. Environmental law, with its specific principles and precautionary orientation, reshapes the traditional framework of administrative policing to make it more responsive, accountable, and adapted to the complex challenges of safeguarding ecological balance.

1- Preventive Nature

The preventive nature of administrative policing finds its most expressive and vital role in the environmental field. Unlike judicial policing, which intervenes after the occurrence of an infraction, administrative policing acts upstream—before harm materializes—aiming to maintain public order in its environmental dimension. This preventive orientation is not only inherent to administrative policing but is significantly reinforced by foundational principles of environmental legislation, such as the precautionary principle and the principle of preventive action and correction at the source.

---

[36] Marcel Waline, The Public Service in French Administrative Law, Librairie Générale de Droit et de Jurisprudence (LGDJ).

The precautionary principle, firmly embedded in both Algerian and comparative environmental law, embodies a fundamental shift from reactive to proactive governance [37]. It imposes on public authorities the obligation to act before scientific certainty is fully established, particularly when environmental damage could be serious or irreversible. This aligns perfectly with the preventive mission of administrative policing, enabling regulatory authorities to block, delay, or condition certain activities in anticipation of potential risks. In Algerian law, this is reflected in Law No. 03-10 of 2003 on Environmental Protection, which mandates tools such as Environmental Impact Assessments (EIA) and environmental permitting systems to evaluate and control risks *ex ante* [38].

One of the most concrete instruments that give operational effect to this preventive approach is the Environmental Impact Assessment (EIA) system. The EIA functions as a legal and technical mechanism designed to anticipate the environmental consequences of proposed projects before they are authorized. It obliges project developers—especially in sectors such as energy, industry, infrastructure, and waste management—to conduct in-depth studies assessing the likely effects of their activities on the environment. These studies are then submitted to the relevant administrative authorities for approval. In Algeria, the obligation to perform EIAs is established under Executive Decree No. 07-145 of May 19, 2007, which details the procedures, content, and scope of EIA requirements, in alignment with Article 14 of Law No. 03-10.

The EIA process empowers the administration not only to reject or suspend harmful projects but also to impose specific conditions or require redesigns to mitigate adverse effects. This process illustrates the shift from curative to anticipatory regulation. Moreover, it opens the door to public participation, ensuring that environmental governance is not only preventive but also transparent and inclusive—another dimension that

[37] Martin, Stéphane. The Precautionary Principle in Environmental Law, LGDJ, 2013
[38] Prieur, Michel. Environmental Law, 7th edition, Dalloz, 2021

reinforces the legitimacy and efficiency of administrative intervention.

Comparatively, the EIA system is widely recognized in international and European law as a cornerstone of environmental regulation. The European Union Directive 2011/92/EU, amended by Directive 2014/52/EU, sets out the framework for EIAs across Member States, including France. French administrative authorities apply this directive through the *Code de l'environnement*, notably under Articles L122-1 and following. In both legal systems, the EIA is not merely a bureaucratic procedure, but a safeguard instrument aimed at preventing irreversible environmental harm before it occurs.

Closely tied to this is the principle of preventive action and correction at the source, also endorsed by Algerian legislators in Article 3 of Law 03-10. This principle strengthens administrative intervention by directing attention to the source of environmental degradation, obliging polluters to employ the best available techniques to prevent harm. It redefines the role of the administrative authority from mere overseer to active enforcer of sustainable practices, particularly in sectors like waste management, industrial emissions, and water resource protection.

Together, these principles and instruments—especially the EIA—have transformed the function of environmental administrative policing into a forward-looking mechanism of environmental governance. No longer limited to maintaining order in a narrow sense, administrative policing in this context serves as a strategic tool to operationalize sustainable development, anticipate ecological risks, and guarantee a high standard of environmental safety. The comparative approach shows that, in both Algerian and European contexts, the legal framework surrounding environmental administrative policing is increasingly defined by anticipation, restraint, and a commitment to preserving ecological integrity before the damage is done.

2- unilateral nature

One of the defining features of classical administrative policing is its unilateral nature. Public authorities exercise their power independently, imposing limitations or obligations without requiring the consent of the individuals concerned. This sovereign prerogative reflects the priority given to public interest and the need to act swiftly to preserve public order—including environmental order—especially when immediate risks threaten the natural balance or public health. In the environmental field, this unilateral authority enables administrative bodies to impose restrictions, suspend polluting activities, or revoke permits without prior negotiation [39].

However, this traditional understanding of unilaterality has evolved under the influence of environmental legislation. While the state retains the authority to impose measures unilaterally, environmental law increasingly emphasizes public participation, transparency, and access to information. In Algeria, this evolution is visible in Law No. 03-10 of July 19, 2003, which enshrines the right of citizens to access environmental information and to contribute to the development and implementation of environmental decisions. This shift reflects an attempt to balance administrative authority with democratic values, without undermining the core function of administrative policing.

3- The discretionary nature of administrative policing

The discretionary nature of administrative policing is one of its defining characteristics, particularly evident in environmental regulation. Administrative authorities are entrusted with the power to decide the most appropriate measures to maintain public order and environmental balance. They may choose to prohibit an activity outright, or alternatively, authorize it under specific regulatory conditions tailored to the context. This

[39] Delvolvé, Pierre. The Power of Administrative Policing, Presses Universitaires de France, 2015

flexibility allows the administration to adapt its actions based on scientific, geographic, or socio-economic realities.

However, this discretion is far from arbitrary. It is bounded by the principle of legality, which mandates that all regulatory measures must be grounded in law. Furthermore, the exercise of discretionary power is subject to judicial oversight, particularly through administrative courts that assess whether such decisions respect proportionality, necessity, and due process.

In Algerian law, several provisions reflect this discretionary aspect. For instance, Articles 18 to 24 of Law No. 03-10 on Environmental Protection grant local and national authorities the discretion to impose environmental restrictions or conditions based on risk evaluations, environmental impact studies, or local ecological needs. Similarly, the Law on Classified Installations (Loi sur les installations classées) allows public authorities to grant or withhold environmental permits depending on the potential danger of the proposed activity.

In French administrative law, this principle is well established. The Conseil d'État has long upheld the right of police authorities to determine how to best preserve public order, provided their decisions are not tainted by abuse of power. A classic reference is the case *CE, 19 May 1933, Benjamin*, which emphasized the need to balance discretion with respect for individual liberties. In the environmental field, Article L511-1 of the French Environmental Code gives the prefect broad discretion to authorize, regulate, or prohibit industrial activities that may harm the environment [40].

This discretionary power also interacts with broader environmental principles, such as the principle of

[40] Institut français des sciences administratives. Le pouvoir discrétionnaire et le juge administratif. Cahiers de l'I.F.S.A., no. 16, Paris, Cujas, 1978 .
Harnay, Sophie, and Vigouroux, Isabelle. "Pouvoir discrétionnaire et choix stratégiques du juge administratif: une analyse économique du gouvernement des juges." Politiques et Management Public, vol. 18, no. 2, 2000, pp. 69–92

proportionality and the polluter-pays principle, ensuring that decisions are not only legal but also just and sustainable.

Ultimately, discretion in environmental policing allows for flexible, case-specific regulation, while legal safeguards ensure transparency, accountability, and the protection of fundamental rights. This balance between sovereign authority and judicial accountability is central to both French and Algerian approaches to administrative environmental law.

This dynamic is also evident in French environmental law. The *Charte de l'environnement* of 2005, which holds constitutional value in France, affirms in Article 7 that "everyone has the right, under the conditions and within the limits defined by law, to access information relating to the environment and to participate in the development of public decisions having an impact on the environment." Accordingly, French administrative authorities must ensure public consultation during Environmental Impact Assessment procedures, and take citizen feedback into account before authorizing projects likely to affect the environment.

As a result, while environmental administrative policing remains fundamentally unilateral in its legal structure, its exercise is increasingly shaped by principles of participation and procedural fairness. This evolution does not dilute the authority of the administration but rather enhances its legitimacy, ensuring that environmental decisions are both effective and socially accepted. It also reflects a growing convergence between sovereign regulatory power and participatory environmental governance, both in Algeria and in comparative legal systems.

4 Administrative control is typically exercised on behalf of the state

Administrative control is typically exercised on behalf of the state, and this is often understood in a narrow sense, referring only to central administrative authorities. This means

that regulatory decisions cannot be made in the name of decentralization at the regional level. This is evidenced by the laws of municipalities and provinces, which grant regulatory powers to the wali (governor) and the president of the municipal people's council, empowering them to exercise regulatory functions on behalf of the state, i.e., on behalf of central authorities [41].

As a result, the exercise of regulatory control follows a vertical structure. This vertical control structure entails the possibility of administrative appeals against decentralization decisions, which can be made before the higher administrative authority. For example, decisions made by the president of the municipal people's council can be appealed to the wali, while the wali's decisions can be appealed to the Minister of the Interior and Local Authorities. As for decisions made by external services, they can be contested before the relevant minister. Consequently, decisions made by environmental services can be appealed before the Minister of the Environment. The result of this structure is the state's dominance over environmental matters.

As for whether such a characteristic exists in French law, it is essential to verify this. While French law indeed provides for centralized control over administrative matters, certain decentralization mechanisms exist, especially when local authorities are involved in environmental management. However, the principle of hierarchical control in administrative decisions remains similar to that in Algeria.

Subsection Two : The Functions and Main Objectives of Administrative Regulation in the Environmental Field

Environmental administrative regulation constitutes a highly specialized dimension of public regulation, reflecting the growing awareness of the need to integrate ecological

[41] **Yves Broussolle**, "Fiche 45. La police administrative," in Fiches d'introduction au droit public, Ellipses, 2019, pp. 278–284.

considerations into the exercise of state authority. Far from being isolated, its objectives are intrinsically linked to the broader aims of general administrative regulation—namely, the preservation of public order, safety, health, and tranquility—while also aligning with the specific goals of sectoral regulation, particularly in terms of protecting natural ecosystems, combating pollution, and promoting sustainable development. As such, environmental regulation operates at the intersection of general public interest and sectoral imperatives, serving both as a preventive and corrective mechanism. In what follows, we shall examine the core functions and strategic purposes of environmental administrative regulation, highlighting its pivotal role in shaping a legal framework that is both ecologically responsible and administratively coherent.

A General Administrative Regulation

The concept of *public order* has long occupied a central place in administrative law, serving as a foundational principle that guides the intervention of public authorities in regulating individual freedoms for the sake of collective well-being. Traditionally, public order has been understood through three core dimensions: public security, public health, and public tranquility. However, with the growing awareness of environmental challenges and their profound impact on societal stability and quality of life, the notion of public order has evolved to incorporate modern components—most notably, environmental protection.

This expanded understanding reflects a paradigm shift wherein the preservation of ecological balance and the prevention of environmental harm are now viewed not merely as policy objectives, but as integral elements of maintaining public order itself. In this context, environmental regulation emerges as a necessary tool for safeguarding both the traditional and contemporary values embedded within the public order framework.

1 Definition of General Administrative Police:

General administrative police refers to a set of preventive measures and actions taken by public authorities with the aim of maintaining public order. It is a legal and administrative function that focuses on preserving peace, security, and public health within society. Unlike judicial police, which intervenes after an infraction has occurred, general administrative police acts preventively, ensuring that risks or disturbances are avoided before they emerge [42].

This police power is exercised by general administrative authorities—such as the mayor, the prefect, or the Prime Minister—without being limited to a specific sector. It is characterized by its broad scope, aiming to safeguard the three traditional elements of public order:

-Public security – protection against threats to safety, such as accidents, crimes, or natural hazards.

-Public tranquility – ensuring peaceful coexistence, regulating noise, demonstrations, or disruptions.

-Public health – preserving hygiene and preventing health risks.

In modern legal development, general administrative policing also includes emerging concerns such as environmental protection and human dignity, reflecting the evolving concept of public order in contemporary societies [43].

2 -The relationship between the protection of public order and the environment.

[42] Laouamer, Afaf , The Role of Administrative Police in Environmental Protection , University of Mohamed Khider Biskra ,2014;p 15

[43] Ambre Vassart, Police administrative et maintien de l'ordre public , Larcier-Intersentia , 2021 and François Lichère , Contemporary French Administrative Law , Cambridge University Press ,2022

In the Algerian legal context, the protection of public order — particularly public security as a core component — is increasingly linked to environmental hazards, notably those stemming from ionizing radiation. These risks are not merely hypothetical; they pose tangible threats to human health, ecosystems, and the broader societal order.

This connection is formally recognized in Executive Decree No. 05-145 of May 11, 2005, which lays down the general protective measures against ionizing radiation. This decree serves as a cornerstone in Algeria's environmental regulatory framework, as it imposes strict safety standards on activities involving radioactive substances. Its provisions are designed to safeguard the population and the environment from radiological risks that could destabilize public security — a fundamental pillar of administrative police [44].

Ionizing radiation, whether accidental (such as leaks in medical, industrial, or research facilities) or due to improper handling of radioactive waste, constitutes a serious disruption to public order. It creates widespread fear, necessitates evacuations, and generates long-term environmental damage. Therefore, environmental regulation in this area is not only about technical compliance but also about maintaining public calm, health, and ecological balance — all of which are integral to the modern conception of *ordre public* in both Algerian and French administrative law.

Thus, the intersection of environmental law and administrative police becomes particularly evident when addressing such high-stakes risks. The state's obligation to anticipate, regulate, and prevent radiological hazards reflects a broader mission to preserve not only environmental integrity but also the peace and safety of the community.

---

[44] khaldi.khedidja Legal Protection of the Atmospheric Environment From Radioactive Pollution in, Journal of Legal and Political Research, Volume 7, June 2022
Algerian Legislation ,

In France, the protection against ionizing radiation is a critical component of both environmental law and public health policy. The legal framework is primarily established through the Code de la santé publique (Public Health Code) and the Code du travail (Labor Code), which outline comprehensive measures for radiological protection [45].

The Public Health Code, particularly in its regulatory part, sets forth general measures for protecting the population from ionizing radiation. Articles R.1333-1 to R.1333-175 detail the responsibilities of various stakeholders, including the implementation of radiological protection measures, emergency preparedness, and public information dissemination.

For instance, Article R.1333-19 specifies the duties of the radiological protection advisor, who is responsible for overseeing the implementation of protective measures and ensuring compliance with safety protocols.

The Labor Code complements the Public Health Code by focusing on the protection of workers who may be exposed to ionizing radiation in their occupational settings. The decree n° 2018-437 of June 4, 2018, significantly restructured the provisions related to radiological protection, emphasizing risk assessment, exposure monitoring, and preventive measures in the workplace. This decree aligns with the European Directive 2013/59/Euratom, ensuring that French regulations meet international standards for radiological protection.

The French legal system recognizes that radiological hazards pose significant threats not only to individual health but also to public security and environmental integrity. Consequently, the Autorité de sûreté nucléaire (ASN) plays a pivotal role in overseeing nuclear safety and radiological protection, ensuring that both environmental and public health considerations are addressed in regulatory practices.

[45] Didier Truchet, Droit administratif , Presses Universitaires de France (PUF ,) 10e édition, 2021 ,pp 325 -337 .

In conclusion, the French legal framework provides a robust structure for managing the risks associated with ionizing radiation, integrating public health, labor safety, and environmental protection. These measures collectively contribute to maintaining public security and upholding the principles of sustainable development.

Public health is a central pillar of public order, and environmental degradation—particularly through the pollution of water resources—poses a serious and direct threat to it. In both Algerian and French legal systems, the protection of public health is not only a political and ethical imperative, but also a legal necessity deeply rooted in administrative regulation and environmental legislation. Water, as a vital resource, becomes a source of danger when contaminated by industrial effluents, agricultural runoff, or untreated domestic waste. Such contamination can lead to the spread of waterborne diseases like cholera, hepatitis A, and dysentery, while prolonged exposure to certain chemical pollutants can result in chronic illnesses including cancer and neurological disorders [46].

In Algeria, the legal framework for addressing these risks is multifaceted. Law No. 01-11 of July 3, 2001, on public health, obliges the State to safeguard the health of its citizens by preventing environmental hazards, particularly those related to water. Executive Decree No. 05-13 of January 9, 2005, specifies detailed procedures for managing the quality of drinking water, enforcing strict microbiological and chemical standards, and requiring continuous monitoring by health authorities. Moreover, Law No. 05-12 of September 4, 2005, concerning water management, includes punitive provisions for polluting activities and empowers administrative authorities to take immediate action to prevent or mitigate harm, ranging from administrative sanctions to the suspension of harmful operations.

[46] Jacques Petit , Police administrative et environnement : vers un ordre public écologique , Revue française de droit administratif , ol. 34, n°3 , 2018 , pp. 432–448

France adopts a similarly robust legal approach, integrating public health concerns directly into both its Public Health Code and Environmental Code. The French Public Health Code, especially Articles L.1321-1 and following, ensures the quality and safety of water intended for human use, placing the responsibility of monitoring and intervention in the hands of regional health agencies. In parallel, the Environmental Code articulates the principles of prevention and precaution, requiring authorities to anticipate environmental risks, especially those that could compromise human health. Both in France and Algeria, administrative authorities—such as mayors, governors, or prefects—are entrusted with the power to issue protective orders when water pollution endangers public health.

These legal mechanisms demonstrate that environmental protection, particularly concerning water quality, is not an isolated objective. It is intrinsically linked to the broader mission of the administrative police, whose purpose is to prevent threats to public order, security, and health. Consequently, environmental regulation has become an essential component of public order protection, with water pollution being recognized not just as an environmental concern, but as a public health emergency that demands coordinated legal and administrative action.

Noise pollution, though often underestimated, constitutes a serious environmental threat and a real concern for public order. It affects not only the quality of life and the psychological well-being of individuals, but also the health of ecosystems and urban environments. In both Algerian and French legal systems, the fight against noise pollution falls under the scope of environmental protection and administrative regulation, highlighting the intersection between environmental law and public health imperatives. In Algeria, Law No. 03-10 of July 19, 2003, on environmental protection within the framework of sustainable development, explicitly recognizes noise as a form of pollution that can harm both human health and the natural environment. The law obliges public authorities to adopt

preventive and corrective measures, and mandates that urban planning and industrial development projects undergo noise impact assessments. Complementing this, Executive Decree No. 06-198 of May 31, 2006, lays out specific measures for limiting noise emissions in residential, commercial, and industrial zones, and empowers local authorities to intervene in cases where noise levels exceed prescribed thresholds[47].

In France, the legal framework is equally detailed and proactive. The Environmental Code, particularly under Book V on pollution, nuisances, and risks, includes noise pollution as a regulated environmental nuisance. Articles L.571-1 and following define environmental noise and establish the obligations of public authorities and private entities to control noise emissions. Moreover, the French Public Health Code recognizes excessive noise as a public health risk, and administrative police powers are granted to mayors and prefects to address urgent noise-related disturbances. For example, local authorities can impose time restrictions on construction activities or restrict traffic in noise-sensitive areas. The concept of "tranquillité publique" (public tranquility), part of the broader notion of public order, reflects the recognition that noise pollution disrupts social peace and physical health, especially in densely populated urban areas.

Thus, in both Algeria and France, the control of noise pollution is not limited to mere urban comfort; it is embedded in broader legal strategies for environmental protection, public health, and public order. Administrative regulation plays a vital role in ensuring that noise levels remain within acceptable limits, thereby safeguarding human health, preserving the environment, and maintaining societal harmony.

---

[47] Marie-Anne Cohendet , The New Environmental Public Order: Between Soft Law and Legal Norms, The Civil Service Notebooks , 2020 , pp. 22–36

B The Objectives of Special Environmental Administrative Regulation

Unlike the traditional goals of general administrative regulation, which aim to preserve public order in its classic dimensions—public safety, public health, and public tranquility—the objectives of special environmental administrative regulation are more directly and proactively oriented towards environmental protection. These specific goals transcend the mere preservation of order, as they are rooted in the evolving priorities of ecological sustainability and the long-term safeguarding of natural resources. In the Algerian legal context, the foundation of these objectives can be clearly traced to environmental legislation, particularly Law No. 03-10 of July 19, 2003, which serves as the cornerstone of the country's environmental legal framework. This law affirms the necessity of regulatory measures tailored to the unique and urgent challenges posed by environmental degradation, pollution, and unsustainable development, thereby establishing a distinct regulatory regime with its own rationale and priorities.

1-The preservation of biodiversity

he preservation of biodiversity stands as a fundamental objective of environmental administrative regulation under Algerian environmental law. Law No. 03-10 of July 19, 2003, which serves as the cornerstone of Algeria's environmental legal framework, explicitly enshrines the protection of biodiversity in Article 39 and following articles. These provisions recognize biodiversity as a vital component of the ecological balance, economic development, and cultural heritage of the nation. Administrative regulation, in this context, is tasked with ensuring the conservation of ecosystems, the protection of natural habitats, and the survival of endangered species, whether flora or fauna. This regulatory goal extends beyond the mere preservation of species to embrace genetic diversity and the resilience of ecosystems.

In practical terms, this objective translates into regulatory actions such as the establishment of protected areas, control over activities that may threaten ecosystems (e.g., deforestation, urban expansion, pollution), and the requirement of environmental impact assessments (EIAs) prior to development projects. These mechanisms are backed by administrative police powers, enabling authorities to impose restrictions, conduct inspections, and enforce compliance in the interest of biodiversity conservation.

In the French legal system, the Code de l'environnement (Environmental Code), particularly Book III, affirms a similar commitment to biodiversity protection. Articles L.110-1 and L.411-1, among others, align with international conventions like the Convention on Biological Diversity (CBD) and provide a legal basis for public authorities to regulate land use, limit access to sensitive zones, and monitor species conservation efforts. The French model also emphasizes decentralization and intercommunal cooperation in managing biodiversity-related challenges, empowering local authorities to act within their jurisdictions under state guidance [48].

From a comparative perspective, both Algerian and French frameworks highlight biodiversity not only as a legal category but also as a matter of public interest and environmental order. However, while French law has developed a more elaborate institutional apparatus (including agencies like the French Office for Biodiversity), Algerian law tends to centralize authority within ministerial departments, although recent reforms suggest a trend toward greater regional participation.

Thus, biodiversity protection represents a modern extension of administrative regulation's mission, shifting its focus from traditional public order concerns—such as safety or tranquility—toward the long-term preservation of the living environment. It illustrates how environmental administrative

[48] Michel Prieur, Environmental Law ,Dalloz ,2022

regulation must integrate ecological science, legal principles, and public policy to meet its goals effectively.

2-The protection of air quality and the atmosphere

The protection of air quality and the atmosphere constitutes a central pillar of environmental administrative regulation under Algerian Law No. 03-10, particularly in light of Articles 41 and 42, which outline the legal obligations related to atmospheric preservation. This objective reflects a shift from classical public order maintenance to the safeguarding of ecological integrity and public health. Administrative authorities are entrusted with the responsibility of regulating activities that emit pollutants into the air, such as industrial operations, vehicle emissions, and waste incineration. The law provides for preventive and corrective measures including emission thresholds, environmental permits, and air quality monitoring systems, all aimed at mitigating the degradation of the atmospheric environment.

This regulatory function is not merely technical; it is rooted in the broader principle of environmental justice, ensuring that clean air is not a privilege, but a right accessible to all citizens. In this sense, environmental administrative regulation acts proactively to prevent air pollution-related risks—such as respiratory diseases, climate disturbances, and acid rain—before they escalate into irreversible environmental or public health crises.

The French legal system similarly places a strong emphasis on atmospheric protection. The Code de l'environnement, notably Articles L.220-1 to L.222-4, outlines a comprehensive framework for air quality protection, including the National Plan for Atmospheric Protection (PNPA), regional air plans (PRQA), and local surveillance networks. France also relies heavily on the precautionary principle, allowing administrative authorities to take anticipatory actions even in the absence of complete scientific certainty. Furthermore, legal tools such as classified

installation regulations (ICPE) and zoning for low-emission urban areas empower administrative bodies to act decisively in pollution control [49].

From a comparative angle, both Algeria and France recognize that air pollution is not only an environmental threat but a public nuisance that directly undermines social welfare and ecological balance. While Algeria's framework is still consolidating its institutional capacities in terms of real-time air quality data and enforcement, the normative ambitions are clear: administrative regulation is expected to play a preventive and corrective role in atmospheric protection, acting in coordination with environmental impact assessments, national monitoring programs, and civil society engagement.

Ultimately, the protection of air and the atmosphere is a vivid example of how modern environmental administrative regulation transcends classical police functions. It addresses global challenges—such as climate change and transboundary pollution—through localized, legally grounded actions, thereby reaffirming the importance of strong legal institutions and administrative vigilance in the service of environmental protection.

3-The protection of water resources and aquatic ecosystems

The protection of water resources and aquatic ecosystems constitutes a fundamental objective of environmental administrative regulation under Algerian environmental law, particularly within the framework of Law No. 03-10. This goal is explicitly addressed in Articles 45 and subsequent provisions, which establish the legal basis for preserving the qualitative and quantitative integrity of surface water, groundwater, wetlands, and marine environments. The rationale underlying this objective is twofold: ensuring the sustainability of vital natural resources and preserving public health, as contaminated or

[49] Jean-Marie Pontier, Administrative Policing in French Public Law, LGDJ, 2019

degraded water directly threatens both ecological balance and human well-being.

Environmental administrative authorities in Algeria are mandated to regulate a wide range of water-related activities, including industrial discharges, agricultural runoff, urban wastewater management, and unauthorized extraction of water. The law imposes strict requirements for obtaining environmental permits, complying with effluent standards, and conducting impact assessments. Furthermore, it establishes preventive measures such as protected water zones and buffer areas around catchments, as well as emergency intervention protocols in the event of accidental pollution [50].

This legal framework reflects a growing awareness of the vulnerability of aquatic environments to both chemical and biological pollutants. The administrative police play a pivotal role in monitoring and enforcing compliance with water protection norms, ensuring that economic development does not occur at the expense of vital hydrological systems. For example, the proliferation of toxic substances, eutrophication of lakes, and salinization of agricultural lands are challenges that administrative regulation seeks to anticipate and mitigate through coordinated legal and technical responses.

In France, the protection of water bodies is anchored in the Code de l'environnement, particularly under Book II, Title I (L.210-1 to L.218-10), which outlines the "droit à l'eau" (right to water) and the principles of integrated water management. The French model is characterized by the watershed approach, implemented through Water Agencies (Agences de l'eau), which operate in partnership with local authorities, civil society, and economic actors. Administrative regulations focus on licensing, pollution control, and restoration of degraded aquatic habitats. Special attention is given to nitrate pollution from agriculture, urban wastewater, and industrial effluents.

[50] Élodie Trichet-Allaire , La police administrative de l'environnement : une police d'équilibre, Revue Juridique de l'Environnement , Vol. 43, n°4, 2018 , pp. 521–538

French environmental law also benefits from the transposition of European directives, notably the EU Water Framework Directive (2000/60/EC), which establishes a comprehensive strategy for achieving "good status" for all water bodies by integrating ecological, chemical, and quantitative criteria. The directive empowers administrative bodies to adopt river basin management plans and enforce polluter-pays mechanisms [51].

From a comparative perspective, both Algeria and France recognize water as a strategic and finite resource whose protection is inseparable from the general interest. However, France's longer regulatory tradition and stronger institutional mechanisms offer a more decentralized and participatory model of water governance. Algeria, for its part, is progressively strengthening its administrative capacity and legal instruments to meet the challenges posed by scarcity, climate variability, and pollution.

In both legal systems, the role of administrative regulation is not merely reactive but profoundly anticipatory and normative. It embodies a proactive form of governance that seeks to balance development with ecological preservation, ensuring that water remains a shared heritage protected for current and future generations.

4--The protection of land and subsoil

The protection of land and subsoil represents a strategic objective of environmental administrative regulation in Algerian law, as codified in Law No. 03-10 on the protection of the environment within the framework of sustainable development. Articles 51 to 54 of this law specifically address the need to prevent soil degradation, erosion, desertification, and contamination of the terrestrial environment. The Algerian

[51] https://www.eea.europa.eu/policy-documents/water-framework-directive-wfd-2000 Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy

legislator emphasizes that the preservation of soil quality is essential not only for food security and agricultural productivity but also for safeguarding biodiversity and preventing the spread of pollutants into water tables and the broader ecosystem [52].

Administrative environmental police authorities are empowered to monitor and regulate activities that pose a risk to the soil, including industrial installations, mining operations, the use of hazardous substances, and the disposal of waste. Law 03-10 establishes a legal obligation to rehabilitate degraded land and imposes environmental impact assessments before the authorization of projects likely to disturb or alter the natural composition of the soil. This preventive approach reflects a shift from reactive environmental governance to a forward-looking strategy aimed at maintaining the long-term viability of natural resources.

Moreover, the law incorporates the concept of ecological restoration of lands affected by human activities, including the reforestation of degraded areas, the remediation of contaminated industrial zones, and the containment of geotechnical risks such as landslides and subsidence. Administrative regulation thus acts as a legal mechanism through which sustainable land use planning is enforced, ensuring the compatibility of development with ecological resilience [53].

In the French legal system, soil protection is addressed through several provisions of the Code de l'environnement, particularly in relation to the prevention of industrial pollution (Articles L.511-1 et seq.) and the management of polluted sites and soils (L.556-1 to L.556-4). France also aligns with European directives such as the Industrial Emissions Directive (2010/75/EU) and has developed detailed methodologies for the identification, classification, and remediation of contaminated

[52] Ministry of Environment and Renewable Energies, "National Report on the State of the Environment in Algeria , 2022

[53] Food and Agriculture Organization of the United Nations , FAO, "Status of the World's Soil Resources , 2015

land. French administrative authorities require site operators to conduct baseline soil assessments and submit rehabilitation plans upon site closure or cessation of activities.

The French model is more advanced in terms of institutional coordination and scientific methodologies, incorporating geographical information systems (GIS), soil quality indicators, and public access to environmental data. Additionally, the "polluter pays" principle plays a central role, placing the burden of environmental rehabilitation on the responsible parties through administrative enforcement and financial guarantees.

From a comparative standpoint, both Algeria and France recognize the soil as a non-renewable resource whose deterioration poses risks not only to the environment but also to public health, economic development, and climate adaptation. Algerian law is steadily evolving to strengthen institutional oversight and technical standards in line with international best practices. However, it still faces challenges in terms of enforcement and intersectoral coordination.

Ultimately, the objective of protecting land and subsoil highlights the essential role of administrative regulation in mediating the relationship between natural resource use and environmental sustainability. It reflects a deepening legal and ethical commitment to preserving the integrity of the earth's surface and underground ecosystems for the benefit of future generations.

5-The protection of desert

The protection of desert ecosystems is a uniquely critical objective of environmental administrative regulation in Algeria, given the country's vast Saharan territory, which constitutes over 80% of its landmass. This regulatory focus is explicitly articulated in Law No. 03-10 on environmental protection within the framework of sustainable development, particularly in the context of combating desertification, conserving

biodiversity, and preserving fragile ecological balances in arid and semi-arid zones.

Desert environments are particularly vulnerable to anthropogenic pressures, including overgrazing, unsustainable agricultural practices, water mismanagement, and unregulated urban expansion. These pressures accelerate the degradation of land and the disruption of native ecosystems, leading to irreversible ecological loss. In response, Algerian administrative environmental regulation places strong emphasis on preventive and restorative measures designed to limit land erosion, protect endemic species, and rehabilitate degraded desert zones [54].

Administrative authorities are tasked with overseeing the implementation of national strategies against desertification, including afforestation programs, the stabilization of sand dunes, and the promotion of traditional land management practices that are compatible with the local climate and cultural context. The law also calls for the creation of protected areas within desert regions, where human activity is subject to strict regulation to prevent further deterioration of natural habitats.

Furthermore, the preservation of Saharan biodiversity—ranging from plant species uniquely adapted to arid climates to endangered desert fauna—is a legally recognized goal that aligns with Algeria's commitments under the United Nations Convention to Combat Desertification (UNCCD). Article 2 of Law 03-10 highlights the protection of natural heritage, including specific references to arid zone ecosystems, thus elevating their conservation to the level of public interest [55].

[54] 3. **Ben Aissa, Abdelkader. "Environmental Legislation in Algeria: Reality and** Prospects , Houma Publishing and Distribution House (Dar Houma , 2018

[55] **United Nations Convention to Combat Desertification (UNCCD), "The Global Land Outlook", UNCCD Secretariat, 2017**

One of the law's most forward-looking provisions is the integration of scientific research and traditional ecological knowledge in the formulation of regulatory responses. This allows for adaptive management practices that respect the ecological specificity of desert regions while ensuring the resilience of local communities whose livelihoods depend on the land.

In short, the administrative regulation of desert environments in Algeria is not merely a technical or ecological necessity—it is a national strategic priority. It embodies the intersection of environmental justice, intergenerational equity, and sustainable development, ensuring that the Sahara remains not only a symbol of cultural and natural identity but also a living ecosystem to be preserved through rigorous legal stewardship.

6-The protection of the living environment

The protection of the living environment, or *cadre de vie*, represents an essential dimension of environmental administrative regulation, both in Algerian and French legal systems. It encompasses a broad spectrum of objectives aiming to safeguard the aesthetic, cultural, and historical integrity of public and private spaces, particularly through the control of visual pollution, the regulation of signage, and the conservation of classified sites and buildings with architectural or natural value.

In Algeria, Law No. 03-10, notably from Article 39 onward, establishes a legal foundation for the protection of landscapes, architectural heritage, and natural sites of ecological and aesthetic importance. This includes restrictions on the placement of billboards, signs, or advertisements that could visually degrade public spaces, especially when placed on historical buildings, natural monuments, or public institutions. Administrative authorities are empowered to issue regulations that govern not only the content and size of such displays but

also their placement and duration, in order to prevent disfigurement of the urban and rural scenery.

This approach echoes closely the French legal framework, particularly under the Code de l'environnement and the Code du patrimoine, which regulate the installation of public signage (*publicité*, *préenseignes*, and *enseignes*), especially within zones protégées or near monuments historiques. In France, the Loi n° 79-1150 du 29 décembre 1979, now codified and reinforced by the Grenelle II law (2010), introduced stringent rules concerning the visual integration of signage into the environment. Local municipalities are entrusted with developing Local Advertising Regulations (RLP) to preserve the visual harmony of urban settings [56].

Both systems, while adapted to their socio-cultural contexts, converge in their understanding of the living environment as a public good (*bien commun*) whose protection is integral to quality of life, cultural identity, and environmental aesthetics. In Algeria, this also intersects with the preservation of traditional architecture in cities such as Tlemcen, Ghardaïa, or the Casbah of Algiers—many of which are recognized as UNESCO World Heritage Sites—requiring special administrative oversight.

The objectives of such regulation are twofold: first, to prevent visual and aesthetic degradation that may arise from unregulated advertising or construction; and second, to reinforce civic attachment to the urban and natural heritage, thereby fostering environmental awareness and sustainable urban planning. This dual role reflects an evolution in environmental regulation, where the state no longer limits itself to traditional notions of health or safety but seeks to preserve cultural and visual well-being as legitimate dimensions of public interest.

Ultimately, the legal protection of the *cadre de vie* illustrates how administrative police powers extend beyond

[56] James P. Lester, World Bank, "Urban Environmental Management: A Global Perspective , CRC Press , 1997

immediate environmental threats to address more subtle but equally impactful forms of environmental harm. By regulating how space is visually occupied and appreciated, both Algerian and French law affirm that the environment is not merely physical, but also symbolic and experiential—a shared legacy to be protected for future generations.

Conclusion of the First Chapter :

The regulatory function in environmental matters stands out as a unique and evolving dimension of administrative law. Unlike classical regulatory powers, which often revolve around the maintenance of public order or economic oversight, environmental regulation is deeply rooted in principles of sustainability, precaution, and intergenerational equity. These foundational values—enshrined in both domestic legislation and international environmental instruments—endow environmental administrative regulation with a distinctive normative character.

This uniqueness is reflected not only in the scope of intervention but also in the very objectives it pursues: the preservation of ecosystems, the rational use of natural resources, and the prevention of irreversible harm. Accordingly, environmental regulation requires a dynamic and anticipatory legal framework, capable of adapting to scientific knowledge and ecological realities. The powers granted to administrative authorities in this domain are thus grounded in legal mechanisms that prioritize ecological balance, public participation, and the long-term safeguarding of collective interests.

Ultimately, the administrative regulation under environmental law reveals a shift from reactive governance to proactive stewardship, embodying the idea that protecting the environment is not merely a technical duty, but a legal and ethical imperative. This regulatory mission, shaped by the particularities of environmental risks and the imperative of ecological integrity, confirms the singular role of administrative

authorities as guardians of the public interest in one of its most vital and vulnerable expressions: the environment.

Chapter Two: Institutional and Legal Mechanisms of Environmental Administrative Policing

Following the in-depth analysis in the first chapter, where we explored the legal foundations and the distinctive nature of the administrative policing function in environmental matters, the second chapter seeks to delve into the structural and operational framework through which this function is effectively exercised. Understanding the mechanisms and institutions involved is crucial for assessing the implementation and enforcement of environmental administrative regulations.

In the first part of this chapter, we will focus on the institutional framework underpinning environmental administrative policing. This includes an examination of the executive authorities entrusted with maintaining public order at the national level. Special attention will be given to the distribution of general administrative policing powers, which aim to ensure public order in its classical sense, alongside the specialized environmental policing competences, which are more directly linked to specific areas of environmental protection, such as biodiversity, water, air, and land.

This institutional approach will allow us to understand how the principles of administrative policing—traditionally grounded in public security, health, and tranquility—interact and evolve when applied to the environmental field, particularly in light of the growing complexity of environmental risks and the emergence of new threats to the public interest.

In the second part, we will analyze the legal instruments and mechanisms used by policing authorities to implement and enforce environmental policy. These tools—ranging from administrative acts, permits, and sanctions to monitoring procedures and emergency measures—constitute the operational arm of environmental policing. We will highlight how these legal instruments are tailored to address the specific challenges of environmental protection, while remaining within the broader

logic of administrative law and the requirements of legal certainty, proportionality, and effectiveness.

This chapter, therefore, aims to bridge the gap between legal norms and institutional practice, shedding light on the actors, methods, and procedures that give concrete expression to the objectives of environmental administrative policing within the Algerian legal system.

Section One: The Institutional Framework of Environmental Administrative Policing

The effective exercise of environmental administrative policing is deeply rooted in a complex institutional architecture that reflects the multilevel nature of public authority in Algeria. In this section, we seek to examine the institutional actors responsible for implementing administrative police powers in the environmental domain, focusing on their respective roles, levels of intervention, and areas of competence.

At the national level, the primary responsibility for preserving public order—including environmental order—rests with the higher administrative authorities, namely the President of the Republic and the Prime Minister, who define the strategic orientation and general policies of the State in environmental matters. Alongside these general administrative police powers, a set of specialized administrative policing authorities operate through sectoral ministries, most notably the Ministry of Environment, which holds a central role in developing, coordinating, and enforcing environmental regulations. Additionally, other ministerial departments—such as those responsible for health, agriculture, energy, and water resources—are directly or indirectly involved in environmental protection, depending on the nature of the activity concerned.

At the regional and local levels, administrative police powers are exercised through decentralized authorities, primarily the Wali (Governor) and, where applicable, the Delegated Wali, who represent the State within the Wilaya and

are tasked with maintaining public order and ensuring the implementation of environmental legislation. Similarly, the President of the People's Communal Assembly (P/APC) plays a key role at the municipal level, particularly in matters related to urban environment management, waste collection, and local nuisance control.

By analyzing these different layers of institutional authority, this section aims to clarify the distribution of environmental policing competences and highlight the importance of coordination and subsidiarity in the enforcement of environmental norms.

Subsection One: The Exercise of Environmental Administrative Policing at the Central Level

The central level of environmental administrative policing in Algeria is characterized by a hierarchical and vertically integrated structure, where supreme administrative authorities—vested with extensive constitutional and regulatory powers—play a decisive role in defining, orienting, and overseeing environmental policy. These authorities not only possess autonomous prerogatives in environmental protection, but they also exert institutional control over all other administrative bodies, whether at the central ministerial level or within decentralized territorial entities. Their leadership is indispensable in ensuring the coherence and unity of environmental policing measures across the national territory.

At the top of this structure stands the President of the Republic, who, as the guarantor of the Constitution and the supreme authority of the State, holds a pivotal role in shaping national priorities, including those related to ecological balance and environmental preservation. His constitutional powers allow him to intervene both in normal circumstances, through policy orientation, legislative proposals, and institutional appointments, and in exceptional situations, through emergency measures

aimed at protecting public order, health, and the environment from imminent or large-scale threats.

Closely following is the Prime Minister, who serves as the head of government and is entrusted with the task of coordinating the action of the executive branch. Through the supervision of ministerial departments and the implementation of environmental legislation adopted by Parliament, the Prime Minister ensures the operational execution of the President's strategic vision. His role is particularly relevant in translating political will into administrative measures and in orchestrating inter-ministerial collaboration necessary for effective environmental governance. This subsection aims to explore in detail the functions and responsibilities of these two central authorities, emphasizing how their constitutional mandates contribute to the formation and application of environmental administrative policing in Algeria.

A – Section One: The Exercise of Environmental Administrative Policing by the Highest Executive Authorities

In the framework of environmental administrative policing, the highest executive authorities play a fundamental role in ensuring the effective protection of public order and the preservation of ecological balance. In Algeria, the centralization of power within the executive branch gives the President of the Republic and the Prime Minister broad constitutional and regulatory prerogatives, which position them at the top of the administrative hierarchy in matters related to environmental governance.

This central authority is particularly significant given that environmental issues often transcend local boundaries and require strategic national planning, coordinated regulatory measures, and rapid responses to environmental threats. The President, as the head of state, is entrusted with preserving national unity and security, including through exceptional

powers during states of emergency, which may be mobilized in cases of major ecological risks. Meanwhile, the Prime Minister, as head of government, ensures the implementation of environmental legislation, supervises ministerial actions, and coordinates intersectoral policy on sustainable development.

This section will therefore examine, first, the legal and functional responsibilities of the President of the Republic in both normal and exceptional circumstances, and second, the role of the Prime Minister in the administrative enforcement of environmental policy, particularly through his coordination of various departments and agencies involved in ecological protection.

1- The President of the Republic of Algeria

1-1- The powers of the authorities of the President of the Republic in ordinary circumstances.

n the framework of ordinary circumstances, the President of the Republic of Algeria exercises crucial powers that significantly impact the organization and operation of administrative policing, particularly in the environmental domain. Among these powers, two stand out as especially relevant: the power of appointment and the regulatory authority [57].

The power of appointment grants the President a central role in structuring the national administrative apparatus, particularly in appointing key figures responsible for implementing environmental policy. At the national level, the President appoints the Prime Minister and ministers, including the Minister of the Environment and the Minister of the Interior—both of whom are deeply involved in matters of environmental administrative policing. The President also presides over the Council of Ministers, thus exerting direct influence and coordination across all ministerial departments,

[57] Ben Nacer, Mohamed , Constitutional Law and Political Systems, Publisher: Houma Publishing and Distribution House, Algiers Year: 2021 , pp. 245–268

ensuring unified state action in environmental regulation. Furthermore, at the regional level, the President appoints the Walis (governors), including delegated Walis, who are essential actors in local implementation of environmental policies. This hierarchical structure gives the President direct control over both central and decentralized regulatory authorities .

In addition to his power of appointment, the President also exercises a general regulatory authority (compétence réglementaire), allowing him to issue independent administrative regulations outside the domain of laws, as defined by Articles 139 and 140 of the 2020 Algerian Constitution. These regulatory measures are distinguished from legislative acts in that they do not encroach on areas reserved to ordinary or organic laws. It is important here to distinguish between the President's regulatory power and his legislative power, the latter being exercised under exceptional circumstances through the issuance of legislative ordinances based on Article 142. In such cases, the President assumes the role of legislator, akin to Parliament. Conversely, his regulatory authority remains an administrative function used to implement national policies and ensure public order, including environmental protection [58].

In terms of environmental governance, the Ministry of Environment plays a pivotal—though not exclusive—role in the enforcement and development of environmental regulatory frameworks. While it holds central responsibility for implementing environmental norms and policies, it operates in coordination with other relevant ministries, such as those in charge of industry, agriculture, water resources, and health. The environmental policing function is thus distributed across several ministerial departments under the strategic direction of the President, ensuring comprehensive and integrated environmental protection. The detailed competencies and role of

[58] Bouafia, Abdelhamid, Explanation of Algerian Constitutional Law under the 2020 Constitution , Modern University Office , 2022
Pages: pp. 159–180 .

the Ministry of Environment will be discussed in a subsequent section.

From a comparative perspective, in the French legal system, the President of the Republic does not possess the same scope of regulatory authority. In France, the Prime Minister holds primary regulatory powers under Article 21 of the Constitution, while the President's role is largely limited to the appointment of high-ranking officials and certain exceptional legislative functions. This contrast illustrates the broader constitutional discretion granted to the Algerian President in the field of environmental regulation and underscores the unique institutional configuration that characterizes the Algerian model of administrative policing [59] .

1-2 The Powers of the President of the Republic in Exceptional Circumstances

In contemporary constitutional systems, the declaration of a state of emergency serves as an exceptional legal tool that enables public authorities to respond swiftly and decisively to existential threats to national security and public order. Among such threats are severe environmental crises — including large-scale industrial disasters, radioactive contamination, deadly pandemics of environmental origin, or the collapse of vital ecosystems — which may demand extraordinary measures beyond the capacity of ordinary administrative mechanisms.

Under the Algerian constitutional framework, the state of emergency is governed by Articles 105 and 107 of the 2020 Constitution. These provisions grant the President of the

1. [59] Pierre Avril et Jean Gicquel , □ Constitutional Law – Political Institutions Publisher: LGDJ – Lextenso Editions, Paris Year: 2020 (18th edition) Pages: pp. 305–335 and *Rousseau, Dominique. Constitutional Litigation LawPublisher: Montchrestien, ParisYear: 2019Pages: pp. 201–225*

□

Republic the authority to declare a state of emergency or a state of exception when the security of the nation or its institutions is gravely threatened. Such declarations must be justified, time-bound, and subject to parliamentary control to ensure conformity with the rule of law and to avoid abuse.

In contrast, during the COVID-19 pandemic, the Algerian executive did not activate these constitutional mechanisms. Instead, the government implemented sweeping restrictive measures through Executive Decree No. 20-69 of March 21, 2020, and Executive Decree No. 20-70 of March 24, 2020, signed by the Prime Minister, not the President. These decrees imposed curfews, limited movement, and suspended various civil liberties, all under the justification of protecting public health.[60]

This regulatory path has raised substantial legal and constitutional concerns. The gravity of the situation arguably warranted the activation of emergency constitutional powers, yet the government bypassed such a formal declaration. The measures adopted under these decrees had profound implications for individual freedoms, including freedom of movement, freedom of assembly, and economic freedoms. According to the principles of constitutional legality, such restrictions must stem from a higher legal authority, especially when affecting fundamental rights. In this regard, Algeria's approach can be seen as a misuse or deviation from the constitutional framework — what legal doctrine refers to as an "abuse of regulatory discretion" in circumstances that clearly required exceptional legal legitimacy [61].

---

[60] *Benmahmoud, Nacereddine. "States of Exception in Algerian Constitutional Law: Between Legal Framework and Practical Deviations." University of Algiers Press, 2021, pp. 142–158.*

[61] Mekki, Abdelkader. "Environmental Emergency and Algerian Administrative Law: The Example of Covid-19 Management." Algerian Review of Legal and Political Sciences, Vol. 9, 2022, pp. 75–92

By contrast, the French legal system reacted differently. In response to the same crisis, France enacted a "health emergency" regime through Law No. 2020-290 of March 23, 2020. This law created a specific legal regime allowing the Prime Minister and the Minister of Health to adopt emergency measures in response to a health crisis. The French model respected both constitutional principles and democratic legitimacy, as the emergency law was debated and approved by Parliament, thus upholding transparency, oversight, and proportionality [62].

When viewed through the lens of environmental governance, this issue becomes even more pressing. As environmental risks — such as toxic spills, nuclear accidents, pandemics arising from ecosystem degradation, and desertification-induced displacement — increasingly pose systemic threats to public order and safety, the question arises: Can and should constitutional emergency mechanisms be adapted or invoked to confront such crises?

The answer lies in recognizing the growing intersection between environmental degradation and public security. In this regard, Algeria's failure to utilize the proper constitutional channels during COVID-19 highlights the urgent need to reform emergency response frameworks, ensuring they can legally accommodate environmental emergencies while remaining anchored in constitutional legitimacy and rights protection.

---

1. [62] *Guérin, Isabelle. "The Health Emergency State in France: A Legal Response to Future Environmental Crises?" French Review of Administrative Law, No. 2, 2021, pp. 210–227. And Melleray, Fabrice. "The State of Emergency and Environmental Protection: Toward a New Function of Emergency Law?" In: Public Law and Exception: Changes and Resistances. Dalloz, 2020, pp. 131–149.*

Therefore, the deployment of emergency powers in response to environmental crises must be framed by both constitutional law and environmental law, striking a careful balance between the need for rapid, centralized decision-making and the imperatives of legal oversight and fundamental rights. The Algerian experience serves as a cautionary tale, while the French example illustrates a path toward constitutionally sound and democratically accountable emergency environmental governance.

2- First Minister

In the framework of the Algerian constitutional system, the First Minister (Prime Minister) holds a central position within the executive authority. According to Article 112 of the 2020 Constitution of Algeria, the First Minister is responsible for executing and coordinating government policy under the authority of the President of the Republic. He ensures the implementation of laws and oversees the proper functioning of the public administration. In this capacity, his prerogatives extend into the field of environmental regulation, especially as environmental protection has become a matter of public order and sustainable development.

Within the scope of his regulatory powers, the First Minister is entitled to issue executive decrees, which are secondary norms that give practical effect to laws passed by the Parliament or to directives from the President. These decrees are essential legal instruments for implementing environmental policies, including measures related to pollution control, biodiversity conservation, water management, and urban planning. A practical illustration of this is found in the Executive Decrees No. 20-69 and 20-70, issued under his authority during the COVID-19 pandemic, which imposed

restrictions on mobility and activities for public health and environmental safety[63].

Furthermore, the First Minister coordinates the activities of various ministries, including the Ministry of Environment, the Ministry of Water Resources, the Ministry of Agriculture, and the Ministry of Interior—all of which play critical roles in environmental governance and administrative policing. Through interministerial coordination, the First Minister ensures consistency in environmental enforcement and aligns national policy with international obligations[64] .

From a comparative perspective, in France, the Prime Minister similarly holds regulatory authority and issues decrees (décrets) in the domain of environmental policing, in line with Article 21 of the French Constitution of 1958. He directs governmental action and ensures the enforcement of laws, including those related to environmental protection. The French Prime Minister also oversees national plans for ecological transition, climate policy, and emergency responses to environmental disasters [65].

Despite the similarities, a key distinction lies in the degree of autonomy. In France, the Prime Minister operates with relatively greater independence from the President when compared to Algeria, where the First Minister's authority is significantly subordinated to presidential directives. This has implications in environmental matters, especially in the coordination and execution of emergency or long-term environmental strategies .

---

[63] Boudiaf, Ali , Constitutional Law and Political Systems, University Publications Office, Algeria, 2022 , pp. 212–217 .

[64] Abd El Nour, Fatima Zahra , Administrative Organization and Constitutional Institutions in Algeria , Dar El-Houda, Algeria , 2021 , pp. 144–149 .

[65] Vedel, Georges & Delvolvé, Pierre ,Administrative Law, University Press of France, 2020 (15th Edition) , pp. 353–360

In both systems, however, the Prime Minister (or First Minister) acts as a key institutional actor in administrative policing, using legal and policy tools to protect the environment, ensure sustainable development, and safeguard public health and order in the face of ecological challenges [66].

B National Special Environmental Administrative Police

At the ministerial level, environmental administrative policing is exercised through what is known as special administrative police powers. These powers are held by specific ministries, with the Ministry of the Environment playing a central and coordinating role. However, the environmental regulatory mission is not exclusive to this ministry; rather, it is shared with other sectoral ministries such as the Ministry of Water Resources, the Ministry of Agriculture, and the Ministry of Energy. Each of these institutions contributes, within its domain, to the implementation of environmental protection policies and the enforcement of regulations. This form of administrative policing is centralized and specialized, targeting particular aspects of environmental concerns and operating under the framework of sector-specific legislation and decrees.

1- The regulatory role of the Ministry of Environment and Quality of Life

1-1 The Role of the Ministry of Environment in the Environmental Field

The environmental sector in Algeria has experienced significant institutional instability over the past decades. Frequent changes in ministerial leadership and structural reorganizations have affected the continuity and coherence of

[66] Chapus, René , General Administrative Law – Volume 1 , Montchrestien, Paris , 2019 , pp. 289–295.

environmental policy. Until 2025[67], the sector witnessed several shifts in mandate, name, and scope, reflecting a lack of long-term strategic vision. It was only with the establishment of the Ministry of Environment and Quality of Life that a more structured and focused approach began to emerge, aiming to align environmental governance with the principles of sustainability, public health, and improved living standards.

The Minister of the Environment holds a wide array of responsibilities, reflecting a comprehensive and integrated approach to environmental governance. One of the core duties of the ministry is to design and implement national environmental programs and action plans. This includes the prevention and mitigation of various forms of pollution, the preservation of biodiversity, protection of the ozone layer, and combating climate change—especially in relation to reducing the national carbon footprint. These actions are developed in coordination with relevant sectoral ministries.

The Ministry is also tasked with developing planning tools for environmental activities and ensuring their implementation. It proposes mechanisms that incorporate the principles of sustainable development and environmental security. Additionally, it initiates and proposes regulatory measures aimed at protecting public health and improving the quality of life through the prevention of environmental degradation and pollution, again in collaboration with other ministries.

The protection and regeneration of diverse ecosystems—including marine, coastal, mountainous, wetland, steppe, desert, and oasis areas—is a major concern of the Ministry, which oversees these efforts through intersectoral coordination. The Ministry also continuously assesses the environmental status of the country and leads all efforts related to climate change mitigation. This includes drafting and validating greenhouse gas

[67] Executive Decree No. 25-104 of March 24, 2025, defining the powers of the Minister of Environment and Quality of Life, Official Gazette dated March 24, 202 (article 2”

inventories and organizing national responses to climate-related risks.

The Ministry oversees decontamination efforts, particularly in urban and industrial zones, and coordinates pollution control strategies, including the management of accidental pollution events. It is also responsible for conducting research and environmental studies that inform preventive policies and responses to environmental risks.

Moreover, the Ministry plays a central role in the development of rules and protective measures for the sustainable use and preservation of natural, biological, and genetic resources. It ensures the establishment of appropriate preventive frameworks through consultation with other government entities. Environmental awareness, education, and public mobilization are also integral components of the Ministry's mandate, promoted through targeted programs and partnerships.

In terms of monitoring and enforcement, the Ministry sets up and manages environmental observation networks, laboratories, and analytical centers, ensuring proper environmental data collection and oversight. It also develops programs for environmental inspections and internal audits to evaluate the effectiveness of environmental policies and regulatory compliance.

Importantly, the Ministry fosters green and circular economic models by promoting waste valorization and ecosystem services. It proposes and develops economic tools related to environmental protection, and delivers licenses, permits, and certifications in accordance with applicable laws and regulations. The Ministry further supports the development of biotechnology and actively encourages the creation and empowerment of environmental protection associations.

This extensive mandate places the Ministry of the Environment at the heart of Algeria’s environmental administration, acting not only as a regulator and policy-maker

but also as a coordinator of national environmental strategy—comparable in many respects to environmental ministries in countries such as France or Canada, though operating within a more centralized administrative structure [68].

1-2 The Role of the Ministry of Environment in promoting quality of life

The role of the Ministry of Environment and Quality of Life in promoting quality of life is closely intertwined with its environmental regulatory mission. By designing and overseeing the implementation of a national strategy for quality of life, the Ministry addresses the broader living environment in which citizens reside. This strategy not only reflects environmental health and sustainability goals but also reinforces the regulatory role of the Ministry in ensuring that environmental protection becomes a fundamental pillar of social well-being[69] .

In this framework, the Ministry monitors and updates key indicators related to quality of life, such as pollution levels, access to green spaces, and environmental risks. These tools are not purely statistical; they serve as instruments of environmental governance, guiding decisions and enabling the enforcement of regulations that aim to protect public health and the ecological balance.

Citizen satisfaction is also a central focus, and the Ministry promotes societal engagement through public awareness campaigns and collaborative programs. These initiatives encourage behavioral change and civic responsibility, which in

[68] Le Monde. (2022). *Climate, energy, biodiversity: What are the new French government's environmental priorities?* https://www.lemonde.fr/en/politics/article/2022/04/30/climate-energy-biodiversity-what-are-the-new-french-government-s-environmental-priorities_5982079_5.html
ECPR. (n.d.). *The Ministry for Sustainable Development and Environmental Policy Integration in France*. https://ecpr.eu/Events/Event/PaperDetails/52234
https://ccme.ca/en/about

[69] Executive Decree No. 25-104 of March 24, 2025, defining the powers of the Minister of Environment and Quality of Life, Official Gazette dated March 24, 2025 (article 4)

turn support the Ministry's efforts to implement and enforce environmental standards.

Moreover, the Ministry develops mechanisms to monitor and evaluate the effectiveness of programs, policies, and projects related to quality of life. Through this evaluative function, the Ministry is able to adjust its regulatory strategies and introduce new legal instruments or policy proposals that enhance environmental justice and urban resilience.

By identifying priority sectors and allocating appropriate resources, the Ministry ensures a targeted response to the most pressing environmental and social challenges. Its contribution to international environmental and quality of life indicators also aligns Algeria with global standards, enhancing transparency and accountability in governance.

In sum, the Ministry's mandate to improve quality of life strengthens its environmental regulatory function, as both domains rely on coordinated policy-making, scientific assessment, and cross-sectoral cooperation to achieve a sustainable and equitable living environment.

In various legal systems, the Ministry of Environment plays a pivotal role in enhancing the quality of life by integrating environmental considerations into public policy. For instance, in France, the Ministry of Ecological Transition is tasked with implementing environmental policies that directly impact citizens' daily lives, such as sustainable transportation, energy efficiency, and urban planning. These initiatives aim to foster a healthier living environment, thereby improving overall well-being. Similarly, in Germany, the Federal Ministry for the Environment, Nature Conservation, Nuclear Safety and Consumer Protection (BMUV) emphasizes the interconnection between environmental protection and quality of life. The BMUV's policies focus on climate preparedness, resource efficiency, and biodiversity conservation, all of which contribute to a sustainable and high-quality living environment. These

examples illustrate how environmental ministries in different jurisdictions adopt comprehensive approaches to policy-making that prioritize both ecological integrity and human well-being [70].

2- The regulatory role of other ministries in the environmental field

2-1 The Ministry of Agriculture and Rural Development

The Ministry of Agriculture and Rural Development in Algeria plays a fundamental role in environmental regulation through its sectoral competencies, as defined in Executive Decree No. 20-128. This ministry contributes decisively to the sustainable management of natural resources, particularly in agricultural, forest, and rural areas. It is responsible for preparing and implementing development strategies in these domains, ensuring the protection and valorization of both plant and animal biodiversity. The Ministry also collaborates in the formulation of national strategies for renewable energy and combats environmental degradation through anti-desertification programs[71].

Additionally, it plays a vital role in the conservation of wetlands, the protection of steppe and desert ecosystems, and the rational management of agricultural land and irrigation resources—particularly through cooperation with the Ministry of Water Resources. In doing so, it promotes sustainable land use and supports awareness programs on water-saving techniques. This coordination reflects a model of sectoral environmental policing aligned with national goals for sustainable development.

---

[70] https://www.cliffordchance.com/content/dam/cliffordchance/briefings/2012/12/qa-on-environmental-law-in-france.pdf and https://iclg.com/practice-areas/environment-and-climate-change-laws-and-regulations/germany

[71] **Executive Decree No. 20-128 of 21 May 2020, defining the powers of the Minister of Agriculture and Rural Development, Official Gazette dated 31 May 2020. .**

In comparative perspective, similar regulatory functions can be observed in countries like France, where the Ministry of Agriculture, along with other institutions, contributes to the implementation of ecological transition policies under the framework of the *Loi Égalim* and the *Plan Biodiversité*. These frameworks also emphasize soil and biodiversity protection, echoing Algeria's efforts within its own environmental governance structure.

2-2 The Ministry of Water Resources

The Ministry of Water Resources in Algeria plays a pivotal role in the nation's environmental governance, particularly concerning the sustainable management of water resources. In collaboration with relevant sectors and institutions, the Ministry is tasked with developing and implementing the national strategy for hydraulics, encompassing legal, human, structural, financial, and material aspects. This includes the formulation of national and regional plans for the mobilization, production, transportation, treatment, allocation, and distribution of water resources. The Ministry is also responsible for continuous quantitative and qualitative assessment of both conventional and non-conventional water resources, identifying suitable sites for infrastructure necessary for storage and transport to serve public needs. Furthermore, it oversees the development of programs aimed at enhancing national capacities in the study and realization of basic hydraulic infrastructures. This encompasses agro-pedological studies and the advancement of irrigation and drainage programs. The Ministry ensures the provision of water for domestic, industrial, and agricultural purposes, including the production and utilization of desalinated seawater, demineralized brackish water, and treated wastewater. It is also charged with the construction, operation, and maintenance of potable water supply infrastructures, sanitation systems, and wastewater treatment units, as well as irrigation and drainage infrastructures. In terms of policy, the Ministry initiates, proposes, and implements water pricing strategies, while ensuring the rational exploitation of water resources and

enhancing the quality of public water services. Additionally, it is responsible for the maintenance and protection of riverbeds, lakes, sebkhas, chotts, and associated lands and vegetation, regulating material extraction and quarry exploitation within the public hydraulic domain. The Ministry also develops and oversees the national seawater desalination program, collaborates with relevant sectors to promote rational water use, protects water quality, preserves water resources, and proposes protective and preventive measures against all forms of water pollution [72].

2-3 Minister of Health, Population, and Hospital Reform

Certainly, based on the responsibilities outlined in Executive Decree No. 11-379 of November 21, 2011, the Algerian Minister of Health, Population, and Hospital Reform plays a pivotal role in environmental regulation, particularly concerning public health. The Ministry is tasked with developing, implementing, and evaluating national strategies and policies aimed at protecting and promoting health. This includes organizing preventive measures, safeguarding public health, and combating both communicable and non-communicable diseases. A significant aspect of the Ministry's mandate involves initiating and implementing measures to combat nuisances and pollution that impact the health of the population. These responsibilities underscore the Ministry's commitment to integrating environmental considerations into public health initiatives, ensuring a comprehensive approach to health and environmental challenges in Algeria[73] .

2-4The Algerian Ministry of Fisheries and Fishery Productions :

[72] Executive Decree No. 23-208 of 12 Dhou El Kaâda 1444 corresponding to 1 June 2023, setting the responsibilities of the Minister of Water Resources, published in the Official Gazette of 6 June 202
[73] Executive Decree No. 11-379 of 25 Dhou El Hidja 1432 corresponding to 21 November 2011, setting the responsibilities of the Minister of Health, Population and Hospital Reform, Official Gazette dated 23 November 201

The Algerian Ministry of Fisheries and Fishery Productions plays a pivotal role in environmental regulation, particularly concerning the sustainable management and conservation of the nation's aquatic resources. According to its official mandate, the Ministry is responsible for overseeing activities related to the exploitation, development, and preservation of national fishery and aquatic wealth. This includes formulating policies for the management of fishery resources, promoting responsible aquaculture practices, and ensuring the protection of threatened marine and freshwater species.

In its commitment to integrated and sustainable development of fisheries and aquaculture, the Ministry emphasizes the importance of responsible exploitation and the safeguarding of biodiversity. This approach aligns with Algeria's broader environmental and sustainable development strategies, ensuring that fishing activities do not compromise the ecological balance of marine and freshwater ecosystems.

Furthermore, the Ministry collaborates with research institutions like the National Centre for Research and Development of Fisheries and Aquaculture (CNRDPA) to develop scientific knowledge and decision-making tools that support sustainable practices in the sector. These efforts contribute to the establishment of a regulatory framework that balances economic development with environmental conservation, reflecting Algeria's dedication to preserving its aquatic resources for future generations.

Subsection : Exercise of administrative control at the regional level

In Algeria, administrative control at the regional level is exercised through a structured framework involving both municipal and provincial authorities, ensuring the maintenance of public order and the effective implementation of national policies.

At the municipal level, the President of the People's Municipal Assembly (Président de l'Assemblée Populaire Communale) serves as the primary authority responsible for administrative control within the commune. Entrusted with preserving public order, the municipal president oversees local development, urban planning, infrastructure, social services, and sanitation. This role is pivotal in addressing the immediate needs of the local population and ensuring the enforcement of laws and regulations at the grassroots level [74].

Moving to the provincial level, the Wali acts as the government's representative and the chief executive authority within the Wilaya. Appointed by the central government, the Wali is responsible for implementing national policies, coordinating with deconcentrated state services, and maintaining public order across the province. The Wali's duties encompass a broad range of administrative functions, including economic development, education, health services, and infrastructure projects, ensuring that the state's objectives are realized uniformly throughout the region. This dual-level system of administrative control facilitates a balance between centralized governance and local autonomy, allowing for tailored responses to regional needs while maintaining coherence with national strategies. By delineating responsibilities between municipal and provincial authorities, Algeria ensures that administrative control is both effective and responsive to the diverse needs of its population [75].

In Algeria, administrative policing at the regional level is structured through a dual framework involving both municipal and provincial authorities, each with distinct roles and responsibilities. At the municipal level, the President of the Municipal People's Council (P/APC) serves as the primary

[74] Fathi Zerari , Local Communities and the Democratic Transition Process in Algeria , Eyrolles Editions , 2018 .

[75] Mohamed Bouzidi , What Management for Algerian Local Communities in the Face of Sustainable Development Challenges? , Revue des Sciences Humaines, Vol. 7, No. 14 , 2016

authority responsible for maintaining public order, tranquility, and hygiene within the municipality. This role encompasses implementing preventive measures to safeguard individuals and property in public spaces, particularly in areas prone to disasters or accidents. Additionally, the P/APC holds specific regulatory authority in domains such as urban planning and construction, ensuring that municipal development aligns with national standards and regulations [76].

At the provincial level, the Wali acts as the state's representative, bearing the overarching responsibility for public order, security, safety, and tranquility across the province. The Wali ensures that law enforcement agencies report all public order issues to him and supervises the P/APCs regarding administrative regulation, as stipulated in Article 88 of Law 11-10. Furthermore, the Wali possesses substitution powers (Articles 100 and 101), allowing intervention when a P/APC fails to take required actions. This includes issuing formal notices and directly executing necessary decisions to maintain public order and implement environmental protection measures effectively.

Comparatively, France's administrative policing framework exhibits both similarities and differences. The Mayor, akin to Algeria's P/APC, serves as the administrative police authority within the municipality, responsible for public safety, peace, and health under the administrative control of the Prefect. The Mayor's duties extend to overseeing municipal police activities, managing urban planning, and ensuring the enforcement of municipal by-laws. In addition to administrative functions, the Mayor also acts as a judicial police officer, empowered to investigate and record certain offences, thereby playing a crucial role in both preventive and repressive aspects of law enforcement.

[76] Law No. 11-10 of June 22, 2011, Relating to the Municipality and Law No. 12-07 of February 21, 2012, Relating to the Wilaya

At the departmental level, the Prefect represents the state and holds significant authority in upholding laws and ensuring public order within their jurisdiction. The Prefect's responsibilities include coordinating police forces, enforcing immigration rules, and supervising local authorities to ensure compliance with national regulations. This role is pivotal in maintaining a cohesive administrative structure and ensuring that local governance aligns with the overarching objectives of the state. Both Algeria and France implement a hierarchical administrative policing system designed to maintain public order and enforce environmental regulations. While Algeria's framework emphasizes a balance between local autonomy and state oversight through the roles of the P/APC and the Wali, France's system reflects a more centralized approach, with the Mayor and Prefect ensuring uniform application of national policies across municipalities and departments. Understanding these structures provides insight into how different nations manage the interplay between local governance and state authority in the realm of administrative policing [77].

The Directorate of Environment at the wilaya (provincial) level in Algeria plays a key role as a decentralized entity of the Ministry of Environment. Its primary mission is to conceptualize and implement environmental protection programs and initiatives for the promotion, development, and enhancement of renewable energy and energy efficiency across the entire territory of the wilaya. These efforts are undertaken in coordination with other decentralized administrative services, as well as local authorities such as municipalities.

In addition to implementing the national sectoral policy, the Directorate ensures that practical measures are taken to improve the quality of life and living conditions in the wilaya. This includes a strong environmental dimension that encompasses air and water quality, waste management, and urban greening. It also participates in actions related to climate change mitigation

[77] Laetitia Janicot , Local Authorities and Environmental Protection",Dalloz ,20219

and adaptation in close cooperation with relevant external departments.[78]

Public awareness and education are central to the Directorate's mandate. It promotes communication and outreach activities on environmental protection and renewable energy to foster a culture of sustainability among citizens and local stakeholders. Furthermore, the Directorate is actively involved in implementing and coordinating waste management plans, including for hazardous, household, bulky, and inert waste. These actions align with Algeria's ambitions to develop a circular economy, particularly through initiatives in waste sorting, recovery, and recycling.

Supporting the development of the green economy at the local level is another important function. The Directorate fosters initiatives that generate sustainable economic activity while preserving the environment, reflecting global trends that link ecological transition with economic development.

Legally, the Directorate ensures compliance with existing environmental and renewable energy legislation and regulations. It is responsible for processing permit applications and other administrative procedures required by national environmental laws. To this end, it conducts studies and prepares legal and regulatory authorizations [79].

Data collection and environmental monitoring are also within its scope. The Directorate gathers, analyzes, and manages data to create thematic databases and environmental reports. These tools help in assessing the environmental status of the wilaya and guiding decision-making.

In terms of legislative development, the Directorate proposes measures to improve the legal and regulatory framework related

[78] Carnegie Endowment for International Peace. (2024, December). *Climate Governance in Algeria: Analyzing Institutional Capacities*. Retrieved April 24, 2025, https://carnegieendowment.org/research/2024/12/climate-governance-algeria

[79] GFA Consulting Group. (n.d.). *Support to the Environmental Sector*. Retrieved April 24, 2025, https://www.gfa-group.de/projects/Support_to_the_environmental_sector_3876524.html

to environmental protection and renewable energy. It also works to prevent environmental degradation by implementing actions in collaboration with other agencies to combat pollution, environmental damage, desertification, soil erosion, and biodiversity loss. Additionally, it promotes green spaces, gardening activities, and the preservation of fishing resources.

In France, environmental responsibilities at the regional and departmental levels are similarly distributed among decentralized services, particularly under the direction of the Direction Régionale de l'Environnement, de l'Aménagement et du Logement (DREAL). The DREALs coordinate the implementation of national environmental policies, including climate adaptation strategies, pollution control, biodiversity protection, and renewable energy promotion. Like in Algeria, these services operate in connection with local authorities and under the supervision of the Ministry for Ecological Transition.

One notable difference, however, lies in the stronger integration of environmental policies with urban planning and transport in France, often through regional climate-energy plans (SRCAE) or territorial climate-air-energy plans (PCAET) managed by inter-municipal structures. While Algeria's environmental directorates focus more specifically on environmental enforcement and awareness, French structures place greater emphasis on multi-sectoral coordination within territorial development strategies.

Section 2 : Mechanisms of Environmental Administrative Policing

In the framework of environmental governance, regulatory authorities play a fundamental role in ensuring that economic and industrial activities are conducted in accordance with environmental standards and sustainable development principles. These authorities are vested with a variety of powers

that enable them to monitor, guide, and, when necessary, sanction behaviors that may pose risks to the environment.

To better understand the scope of these powers, it is important to distinguish between two categories of regulatory tools. On the one hand, there are *ex ante* control mechanisms, which are preventive in nature and come into play before the initiation of any potentially polluting activity. These include procedures such as environmental impact assessments, licensing, and prior authorizations. Their objective is to anticipate and mitigate environmental harm before it occurs.

On the other hand, regulatory authorities also rely on *ex post* control mechanisms, which are activated once the activity has commenced. These tools allow authorities to monitor ongoing compliance, detect violations, and apply corrective measures when necessary. They include environmental inspections, sanctions for non-compliance, and requirements for remediation.

This dual structure of regulatory authority—preventive and corrective—highlights the proactive and reactive dimensions of environmental control. It reflects the broader goal of environmental regulation: to balance development needs with the imperatives of ecological preservation.

Subsection 1: 1 - **Prior control measures**

Prior control measures are essential tools in environmental regulation, designed to prevent harm before it occurs. . These preventive mechanisms not only protect natural resources and ecosystems, but also promote responsible development by obliging stakeholders to assess and mitigate environmental risks in advance.

A -The Prohibition System as a Preventive Regulatory Mechanism in Environmental Law

The prohibition system constitutes a central element within the framework of environmental regulatory measures, serving as a legal mechanism that enables administrative authorities to preemptively restrict or ban specific activities deemed hazardous to the environment. This approach embodies the principle of precaution, where legal intervention occurs before environmental harm manifests, thereby prioritizing prevention over remediation [80].

In Algerian environmental legislation, this system is firmly embedded within the legal instruments governing the protection of water resources. Notably, Article 39 of Law No. 05-12 of 4 August 2005 on Water outlines the regulatory framework through which certain activities—such as agricultural practices, industrial processes, or the discharge of effluents—can be either regulated, closely monitored, or outright prohibited. The legislator thus anticipates the environmental risks linked to the manipulation of water systems, particularly with regard to the installation of wastewater pipelines or any infrastructure likely to affect aquatic ecosystems .

Further reinforcing this preventive posture, Article 46 of the same law sets out an explicit list of prohibited acts. These include the discharge of wastewater into natural or artificial water channels—such as wells, pits, rivers, springs, and canals—regardless of the nature of the discharge. It also criminalizes the dumping or burial of substances that pose a threat to groundwater quality. This enumeration of prohibited behaviors reflects a rigorous environmental ethic aimed at protecting not only surface water but also aquifers, which are essential for both human consumption and agricultural irrigation in a country facing increasing water scarcity[81] .

From an enforcement standpoint, Article 48 provides that the relevant administrative authority is not only empowered but

[80] Dr. Ahmed Benkhedda , The Prohibition System in Algerian Law: A Comparative Study , Dar El Ilm , 2018 .

[81] Fatima Zohra Bensalem Interdiction Measures in Algerian Criminal Law , Algerian Journal of Legal Studies , 12 , 2020 , 45–67 .

obligated to intervene when pollution occurs. In cases where waste discharge endangers public health, the administration must halt the offending activity and compel the responsible party to take immediate corrective action. This power includes the temporary closure of facilities until the source of contamination is neutralized.

Comparatively, French environmental law shares a similar orientation toward anticipatory regulation. The French *Code de l'environnement*, particularly through the *régime des installations classées pour la protection de l'environnement* (ICPE), empowers administrative authorities to prohibit or condition certain industrial activities before they commence, based on environmental risk assessments. Like its Algerian counterpart, the French system imposes prior authorizations and can deny them if projected environmental impacts exceed acceptable thresholds. This aligns with the *principe de précaution* embedded in French constitutional and statutory law, especially since the *Charte de l'environnement* was integrated into the Constitution in 2005 [82].

In both systems, prohibition serves not as a reactionary sanction, but as a strategic, preventative instrument designed to shield environmental resources from foreseeable degradation. By implementing these measures, regulatory authorities assert control over the initial phases of environmental risk, thereby enhancing the resilience and sustainability of natural ecosystems.

B Approval System in Environmental Regulation

Before delving into the mechanisms of administrative approval, it is essential to first contextualize the legal framework that necessitates such procedures—namely, the system of classified

[82] Jean-Pierre Michel,The Prohibition System in French Law, • Presses Universitaires de France ,2015

installations. In many jurisdictions, including Algeria, activities and establishments that are likely to present environmental risks are subject to a specific regulatory regime. These are known as "classified installations for the protection of the environment" (*installations classées pour la protection de l'environnement*), and they include industrial, agricultural, and energy-related facilities whose operation may result in pollution, health hazards, or environmental degradation [83] .

The legal regime governing these classified installations mandates a series of pre-operational controls, at the heart of which lie environmental impact assessments (EIAs), hazard studies, or simplified environmental summaries, depending on the nature and scale of the proposed activity. These studies serve as foundational tools for anticipating and evaluating the potential environmental consequences of a project.

The approval system thus emerges as a key component of this preventive architecture. It reflects the principle that no environmentally sensitive activity should be undertaken without first securing a formal administrative decision based on a thorough review of its environmental implications. Through this system, public authorities are empowered to either grant, condition, or deny the authorization needed to proceed, ensuring that environmental risks are addressed at the earliest planning stage .

1-The concept of classified installations

The legal notion of "classified installations" is fundamentally rooted in the concept of environmental risk. These risks encompass any threats to the environment and public health, with pollution being the foremost among them. According to Article 4 of Algerian Law No. 03-10 on Environmental Protection, pollution is defined as "any direct or indirect alteration of the environment caused by an act that results in a

[83] Amel Madine, Classified Installations for the Protection of the Environment – A Comparative Study, Master's Thesis, University of Tlemcen, 2012–2013

condition harmful to the health and safety of humans, flora, fauna, air, water, land, or social and individual well-being." This broad definition positions pollution not merely as a technical or industrial issue, but as a multidimensional threat impacting both ecological systems and societal balance.

Article 18 of the same law offers a more concrete framework, subjecting to its provisions all factories, workshops, and facilities—whether owned by public or private legal or natural persons—that may generate risks to public health, hygiene, safety, agriculture, ecosystems, natural resources, heritage sites, or the tranquility of surrounding communities. This definition highlights the preventive intention behind the regime: to regulate activities capable of generating harm, regardless of ownership or sector.

The classification of an installation as "risky" is not a matter of assumption, but of legal precision. Executive Decree No. 07-144, particularly its annexed list, provides a detailed taxonomy of such risks, categorizing them into six specific hazard types: highly toxic, toxic, explosive, flammable, corrosive, and reactive substances. These categories help establish an objective basis for assessing whether an activity qualifies as a classified installation, guiding both regulators and operators in identifying applicable legal obligations.

A key conceptual distinction in this regime lies between the terms "installation" and "institution." While an installation refers to a technical unit where one or more activities from the classified list are conducted, an institution (or establishment) encompasses one or more such installations and may be broader in scope. This distinction becomes relevant for regulatory and administrative purposes, especially in the context of licensing and oversight [84].

[84] Moujahid Zine El Abidine, The Legal Protection of Classified Installations, Doctoral Dissertation, University of Sidi Bel Abbes, 2016–2017.

Several core legal features emerge from the overall legislative and regulatory framework governing classified installations in Algeria. First, they must involve activities deemed hazardous to the environment based on objectively defined criteria. Second, they are characterized by a degree of geographical fixity, as underlined by Article 22 of Executive Decree No. 06-198, which specifies that a single operating permit may cover several installations run by the same operator on the same site. Third, the activities must be listed in the official classification list annexed to Decree No. 07-144. However, the system allows for flexibility: this list can be updated by the Sub-Directorate for Classified Installations and Industrial Risk Prevention. Furthermore, if an unlisted activity proves harmful to the interests protected under Article 18, the regional governor (wali) may intervene, issuing formal warnings and deadlines to compel the operator to mitigate the risks, in accordance with Article 25 of Law No. 03-10.

The classification system is further refined by a four-tier structure established under Article 3 of Executive Decree No. 06-198. Institutions are categorized based on the legal authority responsible for their licensing, which indirectly reflects their level of environmental risk. First-category institutions require ministerial authorization, while second-category ones fall under the jurisdiction of the wali. Third-category institutions are subject to municipal approval, and the fourth category involves a simple declaration to local municipal authorities. This tiered approach illustrates the principle of regulatory proportionality: the higher the risk, the more stringent the approval procedure[85].

Importantly, the classification also determines the type of environmental study required. Installations in the first and second categories must undergo a full Environmental Impact Assessment (EIA) and a hazard study. Those in the third

[85] Dr. Mohamed Boudia ,Regulation of Classified Establishments in Algerian Law, Journal of Legal and Political Sciences, 5,2015 ,pp 45-62

category are only required to submit an environmental summary and a report on hazardous substances. As for the fourth category, no preliminary environmental study is required, reflecting the relatively low level of risk associated with such activities.

Comparatively, this regulatory structure closely mirrors the French *ICPE* (Installations Classées pour la Protection de l'Environnement) regime, which also ranks classified activities by risk level and imposes escalating regulatory obligations accordingly. In both systems, environmental risk is central to regulatory intervention, and prior approval mechanisms serve as the primary gatekeeping tool to ensure that environmentally sensitive activities are rigorously assessed before commencement.

Through this multifaceted legal framework, the Algerian system seeks to strike a balance between enabling industrial and economic development and ensuring robust environmental safeguards. The classification of installations, anchored in clearly defined risks and accompanied by tiered regulatory controls, forms a cornerstone of Algeria's preventive environmental governance strategy [86].

2 - Approval procedures for pre-licensing studies of classified installations

The approval process for technical environmental studies is an essential step in the system of prior environmental control for classified installations. This process applies to Environmental Impact Assessments (EIA), Environmental Impact Summaries, and Hazard Studies, all of which must receive formal approval before any license to establish the installation is granted.

---

[86] Legal Department, HG.org , Environmental Compliance of Economic Operators in Algeria , • HG.org Legal Resources

,2023 ,

According to the amended Executive Decree No. 07-145, the EIA and the Summary must be submitted by the project owner to the provincial governor (wali) in fourteen hard copies and two digital versions, all certified by the consulting office that prepared the documents. This requirement reflects a push towards digitalization and administrative efficiency, as it aims to reduce bureaucratic barriers and expedite administrative review.

Once submitted, the study is reviewed by the regional environmental authorities under the wali's supervision. The decree imposes a strict deadline of one month for the preliminary review of the content. The administration may request complementary information within an extended period of two months, a reform introduced by the amendment to enhance accountability and limit administrative delay. Should the project owner fail to provide the requested information within this time — and without submitting a justified extension request — the application is automatically rejected, and the decision is formally communicated to the project owner.

Following initial acceptance, the public inquiry procedure is launched by a decree issued by the wali. This inquiry allows any concerned individual or stakeholder residing in the area to express their views on the project and its environmental consequences. However, certain categories of projects — such as those located within industrial zones, activity zones, ports, or customs-controlled areas, or those constructed offshore and previously subjected to public inquiry — are exempt from this procedure.

The decision to initiate a public inquiry must be publicly announced through physical posting in relevant municipal and provincial locations, as well as publication in two national newspapers at the project owner's expense. The revised decree reduced the posting period to 15 days from the previously mandated one month, a measure that has been criticized due to

public apathy and widespread lack of awareness regarding environmental issues[87].

A commissioner is appointed by the wali to oversee the integrity of the inquiry process. The commissioner ensures that proper procedures are followed, including the maintenance of the public opinion register. At the end of the inquiry, a report is prepared summarizing findings and any additional data gathered, which is then forwarded to the wali. The project owner is subsequently invited to submit a written reply within 10 days, a deadline introduced in the 2018 amendment to replace the vague reference to a "reasonable period," thus aiming to minimize legal disputes between the administration and the investor.

The technical departments under the wali's authority must issue their opinion on the study within one month of the request. If they fail to respond within this period, and after a single formal reminder, their silence is deemed as implicit approval.

In terms of final approval, the Minister of Environment is responsible for approving full Environmental Impact Assessments, while the wali approves Impact Summaries. Any refusal must be justified, and the project owner may appeal to the Minister of Environment by submitting a request along with supporting justifications and any additional documentation.

As for Hazard Studies, Article 15 of Executive Decree No. 06-198 stipulates that the procedures and modalities are defined by a joint ministerial decision, which was not enacted until September 14, 2014. This decision established that hazard studies are to be reviewed by a ministerial committee and approved by the Minister of Environment for first-category establishments, while provincial committees handle approval for other categories under the wali's authority.

[87] Dr. Laila Haddad ,The Management of Special and Hazardous Waste in Algeria 2024,, 15–34

This entire framework reflects a structured and multi-tiered system aimed at ensuring environmental protection before the operation of potentially hazardous installations is authorized.

3-administrative licensing system

Administrative licensing is an administrative act that takes the form of a unilateral decision issued by a competent administrative authority—whether a purely administrative body or an organization under its supervision—based on legal authorization. It serves as a prerequisite for carrying out specific activities or establishing institutions. No freedom, regardless of its importance, can be lawfully exercised without obtaining this license [88].

It is also defined as the official authorization granted by the competent administrative authority to perform a particular activity that would otherwise be prohibited without prior approval. The license is granted only after verifying that all legal and regulatory conditions have been fulfilled [89].

Beyond its role in regulating water pollution, administrative licensing functions as a core mechanism in various environmental fields. Notably, it plays a central role in the governance of classified installations, as explicitly stipulated in Article 19 of Law No. 03-10 on Environmental Protection. This provision makes the granting of a license contingent upon prior approval of technical environmental studies, such as impact assessments or hazard studies, particularly for installations that pose risks to public health, ecosystems, or natural resources.

[88] Azawi Abdelrahman, "The Legal System for Establishments... for Environmental Protection," Library of Legal and Administrative Sciences, Algeria, 1st edition, 2003, p. 40.

[89] Tarek Ibrahim El Desouki Atia, "Environmental Security - The Legal System for Environmental Protection," Dar Al-Jamia Al-Jadida, Egypt, 2009, p. 355.

Furthermore, the licensing system is also a legal requirement in other environmental domains, such as the protection of biodiversity and wildlife management, as addressed under Law No. 04-07 on Hunting. In these contexts, obtaining a license is essential before engaging in activities that may affect protected species or ecosystems. Licensing is also present in sectors such as forestry, fishing, and waste management, where it serves as a control mechanism to ensure compliance with sustainability and conservation goals.

Thus, administrative licensing operates not merely as a bureaucratic formality, but as a powerful tool of environmental governance. It ensures that potentially harmful activities are subjected to prior scrutiny and authorization, aligning them with national environmental priorities and international best practices.

Subsection 2 : **Subsequent control measures**

In the framework of environmental regulation, post-control mechanisms represent a crucial phase of oversight that comes into effect after the commencement of an activity. These tools are designed not only to ensure continued compliance with environmental standards but also to provide the administration with the means to react effectively in cases of deviation or risk. Among these tools, enforcement power allows competent authorities to impose binding measures on operators to correct or halt environmentally harmful behavior. Alongside this, monitoring authority enables ongoing supervision and verification of compliance through inspections, reporting obligations, and data collection. Lastly, non-punitive administrative sanctions—such as formal warnings, suspensions, or temporary closures—serve as corrective interventions rather than repressive measures. Together, these powers form a comprehensive system that strengthens environmental governance by focusing on prevention, accountability, and remediation, rather than merely punishment.

A The obligation system

The obligation system is considered a form of subsequent control measures. This system is typically activated after violations or environmental harm have occurred, especially in cases of water pollution. Once a breach is identified, authorities impose corrective actions, such as penalties or requirements for remediation. The purpose of the obligation system is to ensure that the responsible parties address and resolve the damage caused, thus protecting the environment and maintaining compliance with environmental standards [90]."

In this regard, we can cite a few examples of authority: in the case of concessions for the use and exploitation of thermal waters, the concessionaire is required to comply with the technical standards set by the granting authority regarding the treatment, capture, transport, storage, and distribution of thermal water. The concessionaire is also required, according to the same decree, to submit to the control powers exercised by the said authority."

B regulatory oversight

Ex-post control refers to the process by which administrative authorities monitor environmental activities after licenses have been issued or operations have commenced. This form of control is essentially corrective and reactive in nature, as it is implemented after the initiation of an activity to ensure compliance with established environmental standards and regulations.

In practice, ex-post control involves regular on-site inspections by environmental inspectors who verify that industrial operations and other potentially polluting activities adhere to legal standards. Authorities carefully review the operational procedures, waste management practices, and overall environmental performance of these facilities. When

[90] Touahria Naima , Administrative Regulation in Algerian Environmental Legislation , University of Ouargla University of Ouargla

violations or non-compliance are identified, corrective orders are issued, which may include administrative fines or even the suspension or revocation of licenses [91].

By enforcing these measures, ex-post control serves as a vital tool in protecting natural resources and public health. It not only holds operators accountable for their environmental impact but also deters potential violations by signaling that non-compliance will result in significant legal and administrative consequences.

Oversight is exercised at the central level by two main ministries: the Ministry of the Environment and Quality of Life, and the Ministry of Water Resources. The former is responsible for a broad range of functions, including the regulation of monitoring and inspection mechanisms related to environmental activities. The Minister of the Environment is specifically tasked with defining the objectives, structure, and necessary means for implementing these control tools within the scope of his or her jurisdiction [92].

As for the Ministry of Water Resources, it also holds extensive powers. The Minister is responsible for ensuring the maintenance and protection of riverbeds, wetlands, and related ecosystems. Furthermore, the ministry oversees the compliance with technical standards in the design and implementation of water infrastructure, particularly those intended for domestic, agricultural, and industrial use. This includes the collection, treatment, storage, distribution, and purification of both freshwater and wastewater.[93]

C The preventive administrative sanction

[91]Dr. Amina Khellaf, The Role of Administrative Authority in Protecting the Environment from the Harms of Classified Institutions", 2021 ,

[92] Executive Decree No. 25-104 dated March 24, 2025, specifying the powers of the Minister of Environment and Quality of Life, Official Gazette dated March 24, 2025.

[93]Executive Decree No. 16-88 dated March 1, 2016, Official Gazette dated March 9, 2016.

The preventive administrative sanction is a form of administrative penalty with a protective nature, aiming to preserve public order. It differs from the repressive administrative sanction, which seeks to hold individuals accountable for wrongful conduct. However, it still qualifies as a sanction because it constitutes a significant interference with an individual's freedom, property, or activity. The use of such sanctions by regulatory authorities enhances the effectiveness of the control mechanisms they exercise. This is particularly evident in the environmental field, where administrative sanctions are used to prevent or limit harm to natural resources. In the context of water protection, preventive administrative sanctions serve as a crucial tool to combat pollution and ensure the sustainable management of water resources, safeguarding both public health and ecological balance."

The preventive administrative sanction takes the following forms:

- Administrative suspension of the license: The regulations concerning classified establishments stipulate that if a violation is observed regarding the regulations applied to classified establishments in the field of environmental protection or the specific technical provisions outlined in the exploitation license, a report must be drafted, and a deadline for rectifying the situation is set. At the end of the deadline, the license is suspended."[94]

-The revocation of a license is considered the most severe sanction that may be imposed by a regulatory authority, as it effectively puts an end to the activities of the institution or individual concerned. It is worth noting that the administrative authority retains the power to revoke licenses—whether contractual or unilateral—even in the absence of an explicit legal provision, when acting in the public interest. In such cases, the license holder may be entitled to compensation. However, the authority may also rely on other justifications set forth in

[94] Article 23 of Executive Decree No. 06-198 mentioned above

legal texts, such as those applicable to the use of water resources .[95]

In contrast, when the revocation results from a fault or violation committed by the license holder, no compensation shall be granted.

Conclusion of the Second Chapter 2 :

The institutional framework through which administrative regulation is exercised in the environmental field demonstrates the increasing complexity and interdependence of public authorities in addressing ecological challenges. This chapter highlighted the diversified roles of regulatory bodies, both at the central and regional levels, emphasizing the need for coordination among different ministries and administrative actors to ensure coherent environmental governance.

Furthermore, the legal tools at the disposal of regulatory authorities—ranging from prior control mechanisms to post-activity enforcement powers—constitute a vital component in achieving environmental protection goals. These instruments, grounded in national legislation and aligned with international standards, reflect a preventive and corrective approach that seeks not only to authorize but also to monitor and adjust human activities in line with sustainability principles.

Ultimately, the combination of a well-structured institutional framework and a robust set of legal mechanisms underscores the pivotal role of administrative regulation in preserving ecological balance, protecting public health, and promoting responsible development.

General Conclusion

[95] Article 86 of the Water Law

Administrative regulation under environmental law represents one of the most dynamic and evolving dimensions of modern legal systems. Its distinctive nature stems not only from its legal foundations, which are deeply rooted in the principles of environmental legislation, but also from the specific objectives it seeks to fulfill—namely, the preservation of ecological balance, the protection of natural resources, and the safeguarding of public health.

In the first part of this study, we examined the legal foundations and distinctive features of administrative regulation in the environmental context. We emphasized its unique preventive and corrective nature, which departs from the traditional notion of public regulation by integrating key environmental principles such as the precautionary principle, the prevention of environmental harm, and sustainable development. These principles serve as the backbone for the administrative authorities' power to intervene in the private sphere before or after a given activity is undertaken.

The second part focused on the institutional framework and legal instruments through which administrative regulation is implemented. We analyzed the roles of various regulatory authorities, particularly environmental departments at the central and regional levels, as well as the cross-sectoral coordination between ministries. This institutional complexity reflects the transversal character of environmental issues. We also explored the core legal tools at the disposal of these authorities, such as prior control mechanisms (including licensing and environmental impact assessments), as well as post-activity control measures such as administrative oversight, mandatory compliance measures, and non-punitive sanctions.

Through this analysis, it becomes clear that environmental regulation is not merely a set of technical rules or administrative procedures. Rather, it is a strategic function of public administration that reflects a deeper societal commitment to intergenerational justice and ecological sustainability. The

integration of environmental values into administrative law signifies a shift toward a more responsible model of governance—one that recognizes the limits of natural ecosystems and the duties owed by both individuals and institutions to protect them.

As environmental risks grow in scale and complexity, the role of administrative regulation will only become more central. Strengthening its legal basis, enhancing inter-institutional coordination, and ensuring public participation are key to making environmental governance both effective and legitimate in the years to come.

List of Principal References Used in the Preparation of This Work :

Atapattu, S. (2002). The Right to a Healthy Life or the Right to Die Polluted? The Emergence of a Human Right to a Healthy Environment Under International Law. Tulane Environmental Law Journal, 16(1), 65–126.

Avril, P. & Gicquel, J. (2020). Droit constitutionnel – Les institutions politiques (18e éd.). LGDJ – Lextenso Éditions.

Ben Aissa, A. (2018). La législation environnementale en Algérie : réalité et perspectives. Dar Houma.

Ben Dahou, N.E. (2020). La consécration constitutionnelle du droit à l'environnement à la lumière de la révision constitutionnelle de 2020. Revue du droit international et du développement, n° 2, pp. 11–15.

Benkhedda, A. (2018). Le système des interdictions en droit algérien : étude comparative. Dar El Ilm.

Benmahmoud, N. (2021). Les états d'exception en droit constitutionnel algérien : entre encadrement juridique et dérives pratiques. Presses de l'Université d'Alger, pp. 142–158.

Bensalem, F.Z. (2020). Les mesures d'interdiction en droit pénal algérien. Revue algérienne d'études juridiques, 12, pp. 45–67.

Boudiaf, A. (2022). Droit constitutionnel et systèmes politiques. OPU.
Boudiaf, A. (2012). Explication du droit communal. Éditions Jisr, p. 253.
Boudia, M. (2015). La réglementation des établissements classés en droit algérien. Revue des sciences juridiques et politiques, 5, pp. 45–62.
Bosselmann, K. (2016). The Principle of Sustainability: Transforming Law and Governance (2e éd.). Routledge.
Broussolle, Y. (2019). Fiche 45. La police administrative. In Fiches d'introduction au droit public (pp. 278–284). Ellipses.
Chapus, R. (2019). Droit administratif général, tome 1. Montchrestien, pp. 289–295.
Cohendet, M.-A. (2021). Droit constitutionnel de l'environnement : perspectives comparées. Mare & Martin.
Cohendet, M.-A. (2020). Le nouvel ordre public environnemental : entre soft law et norme juridique. Cahiers de la fonction publique, pp. 22–36.
Delvolvé, P. (2015). Le pouvoir de police administrative. PUF.
Delvolvé, P. & Vedel, G. (2020). Droit administratif (15e éd.). PUF, pp. 353–360.
Dernbach, J.C. (2002). Stumbling Toward Sustainability. ELI Press.
El Desouki Atia, T.I. (2009). La sécurité environnementale – Le système juridique de protection de l'environnement. Dar Al-Jamia Al-Jadida.
Haddad, L. (2024). La gestion des déchets spéciaux et dangereux en Algérie, pp. 15–34.
Harnay, S. & Vigouroux, I. (2000). Pouvoir discrétionnaire et choix stratégiques du juge administratif. Politiques et Management Public, 18(2), pp. 69–92.
Janicot, L. (2019). Les collectivités locales et la protection de l'environnement. Dalloz.
Knox, J.H. & Pejan, R. (Eds.). (2018). The Human Right to a Healthy Environment. Cambridge University Press.

Laouamer, A. (2014). Le rôle de la police administrative dans la protection de l'environnement. Université Mohamed Khider Biskra.
Lester, J.P. (1997). Urban Environmental Management: A Global Perspective. CRC Press.
Lichère, F. (2022). Le droit administratif contemporain français. Cambridge University Press.
Martin, S. (2013). Le principe de précaution en droit de l'environnement. LGDJ.
Mekki, A. (2022). L'urgence environnementale et le droit administratif algérien : exemple de la gestion de la Covid-19. Revue algérienne des sciences juridiques et politiques, 9, pp. 75–92.
Meynier, A. (2017). Réflexions sur les concepts du droit de l'environnement. Université Jean Moulin Lyon 3.
Minet, C.-É. (2019). Droit de la police administrative. Lextenso, p. 45.
Moujahid, Z.E.A. (2016–2017). La protection juridique des installations classées, Thèse de doctorat, Université de Sidi Bel Abbès.
Naim-Gesbert, É. (4e éd.). Droit général de l'environnement. LexisNexis, p. 243.
Petit, J. (2018). Police administrative et environnement : vers un ordre public écologique. Revue française de droit administratif, 34(3), pp. 432–448.
Pontier, J.-M. (2019). La police administrative en droit public français. LGDJ.
Prieur, M. (2021). Droit de l'environnement (7e éd.). Dalloz.
Prieur, M. (2022). Droit de l'environnement. Dalloz.
Ramade, F. (2000). Dictionnaire encyclopédique de la pollution. Ediscience International.
Rivero, J. & Waline, J. Droit administratif général. Dalloz.
Romi, R., Audrain-Demey, G. & Lormeteau, B. (2021). Droit de l'environnement et développement durable (11e éd.). LGDJ, coll. Précis Domat.
Sadeleer, N. de. Les principes du pollueur-payeur, de prévention et de précaution, p. 71.

Spijkers, O. & Tang, K. (2022). The Human Right to a Clean, Healthy and Sustainable Environment. Chinese Journal of Environmental Law.
Trichet-Allaire, É. (2018). La police administrative de l'environnement : une police d'équilibre. Revue juridique de l'environnement, 43(4), pp. 521–538.
Ullmann, G. (2016). Installations classées : deux siècles de législation, vol. 1. Cogiterra Éditions.
Vassart, A. (2021). Police administrative et maintien de l'ordre public. Larcier-Intersentia.
Waline, M. Le service public en droit administratif français. LGDJ.
EEA. (2000). Directive 2000/60/CE cadre sur l'eau. https://www.eea.europa.eu/policy-documents/water-framework-directive-wfd-2000
FAO. (2015). Statut des ressources mondiales en sols.
UNCCD. (2017). The Global Land Outlook.
Ministry of Environment and Renewable Energies. (2022). Rapport national sur l'état de l'environnement en Algérie.
Carnegie Endowment for International Peace. (2024, décembre). Climate Governance in Algeria: Analyzing Institutional Capacities.
GFA Consulting Group. Support to the Environmental Sector. https://www.gfa-group.de/projects/Support_to_the_environmental_sector_3876524.html
Le Monde. (2022). Priorités environnementales du gouvernement français. https://www.lemonde.fr/en/politics/article/2022/04/30/climate-energy-biodiversity
HG.org. (2023). Conformité environnementale des opérateurs économiques en Algérie.
Clifford Chance. (2012). Q&A on Environmental Law in France. https://www.cliffordchance.com/content/dam/cliffordchance/briefings/2012/12/qa-on-environmental-law-in-france.pdf

ICLG. Environmental and Climate Change Laws and Regulations: Germany. https://iclg.com/practice-areas/environment-and-climate-change-laws-and-regulations/germany

https://online.ecok.edu/articles/causes-of-water-pollution (consulté le 09/04/2025)

Table of Contents