

Received: 12-02-2026

Accepted: 17-04-2026

## **Balancing Environmental Protection and Investment Promotion in the Regulation of Classified Installations under Algerian Law**

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### **Abstract:**

Balancing economic development with environmental protection remains a demanding legal and policy task for contemporary states. In Algeria, the issue is sharpened by rapid industrial and economic expansion, which has increased the number of industrial and commercial installations whose activities may threaten environmental media through air, water, or soil pollution. Algerian legislation accordingly identifies environmentally sensitive activities and submits them to a classification regime, grouping them into categories of “classified installations.” This framework is intended to promote industrial investment while establishing legal mechanisms that protect the environment and secure its sustainability over time. The legislative orientation is to shape a legal environment where investment incentives coexist with enforceable safeguards. For that purpose, the State has adopted laws and regulatory instruments that operationalize this balance and impose concrete duties on industrial project operators, including preventive measures designed to reduce and contain the adverse effects of economic activity on the surrounding environment.

**Keywords:** Classified installations; investment; environmental protection.

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## **INTRODUCTION**

Algeria is currently undergoing a pivotal phase in its economic and industrial development, evidenced by a marked rise in domestic and foreign investment across multiple industrial and commercial sectors. Within this momentum, the need to reconcile economic growth with environmental protection has become a central governmental concern. Rapid industrialization and the expansion of major projects can generate serious environmental pollution when effective constraints and monitoring mechanisms are absent or inadequately enforced. This is where the environmental classification regime for installations, as developed under Algerian legislation, becomes functionally significant. It serves to identify installations with substantial environmental effects and to subject them to standards intended to prevent or reduce harm.

In this legal sense, classified installations are those requiring close environmental oversight because their activities may pose risks to public health or to environmental integrity. By relying on classification, Algerian law seeks to discipline economic activity in a manner aligned with sustainable development principles. It obliges operators to adopt precautionary and preventive measures to mitigate pollution and to protect natural resources. At the same time, the Algerian legislator treats investment promotion, whether domestic or foreign, as a strategic driver of growth and as a foundation for an attractive investment climate that supports the development of national industry.

How can Algeria reconcile the promotion and expansion of industrial investment with the imperative of environmental protection, and what legislative solutions has it adopted to structure and enforce this balance?

### **2. Classified Installations**

The term “classified installations” has long been contested in legal scholarship, which is why environmental legal systems have tended to define it through dedicated statutory and regulatory texts. Algerian law follows this approach: it does not

only define classified installations, but also ranks them according to their relative importance and the intensity of their potential effects on the environment.

### **2.1 Definition**

In legal doctrine, classified installations are commonly described as industrial or commercial facilities capable of generating risks or nuisances affecting public security, public health, public hygiene, or the environment. Because of these potential harms, they are subjected to a special supervisory regime designed to prevent or contain risks and disturbances, particularly those linked to explosions, smoke, and odours<sup>1</sup>.

In positive law, Article 18 of Law No. 03-10 on Environmental Protection within the Framework of Sustainable Development subjects to its provisions, in general, installations owned or operated by any natural or legal person, whether public or private, where such installations may create risks to public health, hygiene, security, agriculture, ecosystems, natural resources, sites and landmarks, or tourist areas, or may otherwise impair neighbourhood comfort<sup>2</sup>.

Executive Decree No. 06-198, which sets the regulatory regime applicable to classified establishments for environmental protection, draws an explicit distinction between the “classified installation” and the “classified establishment.” A classified installation is defined as any fixed technical unit in which one or more activities are carried out, provided those activities appear in the regulatory list of classified installations in force. A classified establishment refers to the overall site area that includes one or more classified installations, placed under the responsibility of a natural or legal person subject to public or private law, who owns the establishment and the installations constituting it, operates them, or entrusts their operation to another person.

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## 2.2 Classification

Algerian legislation classifies classified installations by reference to their importance and to the risks arising from their operation. At a first level, it distinguishes between installations subject to **authorisation** and those subject to **declaration**. The key criterion is whether the activity must be supported by an environmental impact study or an impact statement, as reflected in Article 19 of Law No. 03-10 on Environmental Protection within the Framework of Sustainable Development.

Executive Decree No. 06-198 further structures this regime by dividing classified installations into four categories, framed in terms of the competent authorising authority:

- a) First-category classified establishment: includes at least one installation requiring ministerial authorisation.
- b) Second-category classified establishment: includes at least one installation requiring authorisation from the territorially competent wali (governor).
- c) Third-category classified establishment: includes at least one installation requiring authorisation from the territorially competent President of the People's Municipal Assembly.
- d) Fourth-category classified establishment: includes at least one installation subject to a declaration addressed to the territorially competent President of the People's Municipal Assembly<sup>4</sup>.

These categories are defined exhaustively by Executive Decree No. 07-144, which sets out the list of classified installations for environmental protection<sup>5</sup>.

### **3. Legal Mechanisms for Environmental Protection and Investment in Classified Installations**

Investment in activities carried out by classified installations is among the project types adopted by states, including Algeria, given the considerable economic and social weight attached to such activities. This investment is nonetheless pursued only within a framework that preserves the environment, with a view to achieving sustainable development in its various dimensions. Algerian lawmakers have therefore adopted a set of legal mechanisms aimed at the sustainable governance of economic projects, structured around an environmental management system that is regular, planned in advance, and implemented in an organised manner.

#### **3.1. Preventive mechanisms for environmental protection in the context of investment**

Environmental authorities exercise wide powers in implementing preventive environmental policy. At the same time, the administration functions as the primary institutional lever for the effectiveness of environmental mechanisms that are preventive rather than punitive. Because environmental damage caused by pollution is, in many instances, not realistically reversible, the State has relied on instruments designed to avert harm before it occurs, while also allowing the monitoring and control of operators engaged in hazardous activities. In practice, this is done through two mechanisms: the environmental impact study and the hazard study.

##### **3.1.1. Environmental impact study**

The environmental impact study refers to the process through which the actual or anticipated effects of a development activity are identified with respect to the social, economic, and environmental factors the activity is intended to influence, or may influence unintentionally. The aim of impact assessment is to inform and improve decision-making relating to a specific activity, whether it takes the form of a public policy, a plan, a programme, or a project<sup>6</sup>.

The impact study must set out the scale of the project and the expected environmental effects, and it must include all information specified in Article 3 of Executive Decree No. 18-255, as amended and supplemented, which determines the scope of application, content requirements, and approval modalities for the environmental impact study and the impact statement.

Procedurally, the project proponent deposits the environmental impact study with the territorially competent wali (governor). The territorially competent environmental services then review it within one month from the date on which the application is notified<sup>7</sup>. Once the review stage is completed, the wali issues a decision opening a public inquiry and appoints an investigating commissioner charged with implementing that decision. The commissioner's mandate ends with the drafting of official minutes detailing the inquiry<sup>8</sup>, which are transmitted to the wali. The wali prepares a copy of the opinions obtained and provides it to the project proponent, who must submit a written response memorandum within a period not exceeding ten days. After the inquiry is completed, the file is forwarded to the minister responsible for the environment for approval.

- **Application of the impact study under hydrocarbons legislation:**

The environmental impact study is used as a prior technical requirement for projects, including hydrocarbons projects, which require an upstream assessment of their direct or indirect environmental effects. This is operationalised through the preparation of a compliance programme drafted by specialised consultancy offices, taking impact studies into account before the relevant contractor, or any person legally entitled to engage in hydrocarbons activities in any form<sup>9</sup>, undertakes operations. The study is deposited with the hydrocarbons' regulatory authority, as the body responsible for this procedure. It must include an environmental management plan, along with all preventive measures and risk-management arrangements associated with hydrocarbons-sector activities, whether relating to exploration works, extraction, processing, storage, pipeline transport, hydrocarbons conversion, loading

and unloading operations for petroleum products, flaring and other operations contributing to atmospheric pollution, as well as all plans for the disposal of hazardous waste generated by these activities. This takes place within the broader obligation to comply with all environmental protection measures addressing risks arising from such investment.

The hydrocarbons regulatory authority examines the application within one month of receipt. During this review, it obtains consultations from the relevant ministerial departments and the wilayas within 45 days from the date of notification. Where observations are made, the authority informs the applicant and grants a 30-day period to amend the study. Where no observations are raised, the approval visa is issued by the ministry<sup>10</sup>.

### **3.1.2. Hazard Study**

The hazard study is a prior environmental assessment required for any investment project established within the regime of classified installations. Its purpose is to evaluate the project's level of danger to the environment and to individuals, particularly in terms of health and living conditions. It involves identifying and inventorying the risks and potential incidents that may result from operating the classified installation, and it sets out the measures adopted to address accidents that could arise from the installation's activities<sup>11</sup>. Under Law No. 04-20, every industrial installation is required to undergo a hazard study before operations begin<sup>12</sup>. The project proponent files the hazard study with the territorially competent wali (governor) in eight copies. The wali then forwards it either to the inter-ministerial joint committee for first-category establishments or to the wilaya committee for second-category establishments. The competent committee subsequently prepares a decision approving or rejecting the hazard study. The decision is signed jointly by the Minister of the Interior and the Minister of the Environment when it concerns a first-category establishment, and by the territorially competent wali when it concerns a second-category establishment.

### **3.1.3. Administrative authorisation mechanism**

Because classified-installation activities may constitute a source of pollution capable of harming the environment, they are subject to ex ante oversight by environmental administrative police authorities. Operators are therefore required to obtain multiple authorisations, including an operating licence as well as permits relating to waste management and disposal.

#### **3.1.3.1. Authorisation to operate classified installations**

The operating licence may be defined as an administrative document setting out technical specifications governing the activity of the classified installation and the conditions under which it is to be operated. It must comply with all requirements relating to environmental protection within the framework of sustainable development<sup>13</sup>.

The operating licence is issued on the basis of an application submitted by the project proponent, accompanied by the documents listed in Article 8 of Executive Decree No. 06-198. A competent committee conducts an initial review of the file and grants the project proponent prior approval to establish the installation. Once the classified establishment has been constructed, the committee carries out a site visit to verify conformity with the documents included in the file. Where conformity is confirmed, the operating licence for the classified installation is delivered to the project proponent. In practice, the licence is issued through decisions adopted by different administrative authorities depending on the category of the installation and its relative importance.

Accordingly, the operating licence is issued, as the case may be<sup>14</sup>:

- by a joint ministerial decision of the minister responsible for the environment and the relevant sectoral minister, for first-category classified installations;
- by a decision of the territorially competent wali, for second-category classified installations;
- by a decision of the territorially competent President of the People's Municipal Assembly, for third-category classified installations.

The foregoing shows that Algerian lawmakers have adopted a graduated criterion for determining the authority competent to issue operating licences for classified installations. The greater the installation's importance and environmental risk, the higher the level of the administrative authority empowered to grant the licence. On this basis, the legislator appears to be seeking a balance between environmental protection and the freedom of economic activity. Administrative requirements are lighter for simpler economic activities, represented here by third-category classified installations, for which licensing is confined to a decision by the territorially competent President of the People's Municipal Assembly. By contrast, first-category classified installations require authorisation from central administrative authorities.

#### **2.1.3.2. Permits for waste management**

Because waste treatment and disposal raise highly sensitive environmental issues, given their potential adverse effects, they require supervisory safeguards capable of preventing harm. The permits governing waste management differ depending on the type of waste concerned. One key permit concerns the transport of hazardous special waste.

- **Hazardous special-waste transport permit**

Hazardous special waste refers to special waste which, by virtue of its composition and the toxic properties of the substances it contains, may endanger public health or the environment. Given the risks inherent in transporting such waste, the regulatory approach has been to impose strict monitoring requirements on transport operations. Among these requirements is the obligation to obtain a permit. By way of illustration, the transport of hazardous special waste is subject to authorisation issued by the minister responsible for transport<sup>15</sup>.

The modalities governing the transport of hazardous special waste are set out in Executive Decree No. 04-409<sup>16</sup>. Article 14 provides that the transport permit evidences the carrier's qualification to transport hazardous special waste. Article 15 refers to a joint ministerial order specifying the content of the permit application file, the procedure for granting

the permit, and its technical characteristics, to be adopted by the minister responsible for the environment and the minister responsible for transport. In addition, any carrier transporting hazardous waste must present the permit during inspections carried out by the authorities competent for that purpose.

- **Permit for the export and transit of special waste<sup>17</sup>**

Cross-border movement of waste is often driven by economic considerations, notably where disposal in a foreign jurisdiction is less costly. As a starting point, Algerian lawmakers have imposed a strict prohibition on the importation of hazardous special waste. By contrast, export to other states is conditioned on obtaining specific, written approval from the competent authorities in the importing state. In addition, all of the operations referred to above are subject to prior authorisation issued by the minister responsible for the environment. The grant of this authorisation is tied to the following conditions:

- compliance with internationally agreed packaging and labelling rules and standards;
- submission of a written contract between the exporting economic operator and the treatment facility;
- submission of an insurance contract that includes all necessary financial guarantees;
- submission of a movement document signed by the person responsible for cross-border transport;
- submission of a notification document, duly signed, evidencing the prior approval of the competent authority in the importing country.

What may be inferred here is that the Algerian legislator did not confine protection to the national environmental sphere. Indirectly, it also sought to extend that protective logic to the environmental territories of other states by requiring, for any export authorisation relating to hazardous special waste, prior and written consent from the competent authorities of the importing state.

- **Permit for the discharge of industrial liquid effluents (industrial outfalls)**

The discharge of industrial liquid waste refers to any flow, runoff, discharge, direct or indirect release, or accumulation of a liquid resulting from an industrial activity<sup>18</sup>. Administrative police authorities play a central role in controlling the effects of polluting activities. Before granting any permit authorising the discharge of industrial liquid effluents into the natural environment, they verify that the discharge does not compromise the natural regenerative capacity of water, does not adversely affect public health and public hygiene, and does not undermine the protection of aquatic ecosystems. This form of discharge is subject to a permit delivered by the minister responsible for the environment, after obtaining the opinion of the minister responsible for water resources. The permit specifies the technical conditions to which the discharge is subject.

The conditions for obtaining the permit are as follows:

- all installations producing industrial liquid outfalls must be designed, constructed, and operated so that, at the point of release from the installation, their effluents do not exceed the maximum values set by the applicable regulatory framework; they must also be equipped with an appropriate treatment device capable of reducing the level of pollution discharged;
- where failure to operate the treatment installations would lead to exceeding the imposed maximum values, the operator must take the necessary measures to reduce the pollution emitted, including scaling down activities or suspending them when required.

#### **4. Deterrent mechanisms for environmental protection in an investment context**

In order to secure effective environmental protection, Algerian lawmakers have equipped environmental authorities with a set of deterrent tools, alongside their general power to take the measures and interventions necessary to safeguard the environment. These mechanisms include the following.

#### **4.1. Notice or formal warning (notification / injunction)**

This mechanism refers to the procedure used by environmental administrative police authorities to alert the operator and require corrective action so that the situation aligns with legal requirements. A formal warning is among the least severe administrative measures. It is expressly recognised, for example, in Law No. 03-10 on Environmental Protection within the Framework of Sustainable Development. Article 25 confers on the wali the power to issue a formal warning to the operator of an installation that is not listed among classified installations but nonetheless gives rise to risks or environmental harm, requiring the adoption of the necessary measures to remove the resulting damage.

#### **4.2. Temporary closure or suspension of activity**

The administration resorts to temporary closure or suspension where a given activity causes harm or poses a risk to the environment as a result of the operator's failure to adopt the required preventive measures, even after the administration has issued a formal warning. This is treated as a rapid and effective intervention because it prevents pollution by shutting down its source<sup>19</sup>. An illustration appears in Article 25(2) of the same environmental law, which provides, in substance, that where the operator fails to comply within the prescribed period, the operation of the installation is suspended until the imposed conditions are implemented.

#### **4.3. Withdrawal of the licence and closure of the installation**

Withdrawal of the operating licence, coupled with closure, is among the more stringent measures available to the administration when addressing violations. It is triggered where the licensed operator is found to have breached the conditions governing the authorised activity. The measure is envisaged in defined situations, notably breach of the regulatory regime applicable to classified installations for environmental protection, or breach of the technical provisions set out in the operating licence. The process begins with the suspension of the operating licence and the grant to the operator of a six-month

period to bring the establishment into conformity. Failing that, the operating licence is withdrawn. Once withdrawn, the operator may not resume the activity of the classified establishment except by applying for a new operating licence<sup>20</sup>.

Under Article 48(2) of Executive Decree No. 06-198, the territorially competent wali is empowered to close the establishment if, after having been formally warned, the operator fails to file the required declaration or submit the licence application, or fails to complete an environmental review or hazard study within the time limits set by the decree.

#### **4.4. Environmental fiscality**

Environmental fiscality is reflected, for classified installations, in the imposition of deductions in the form of taxes and fees intended to incentivise polluters to adopt environmentally protective behaviour, or to ensure that those who carry out polluting activities bear the associated costs. This approach operationalises the “polluter pays” principle<sup>21</sup>, which Algerian lawmakers incorporated into Law No. 03-10. Under that principle, any person whose activity causes, or may cause, environmental harm must bear the costs of pollution-prevention measures, pollution reduction, and the restoration of sites and their environments to their original condition.

### **5. Legal safeguards for sustainable investment in classified installations**

Investment in classified-installation activities offers clear benefits, notably job creation and support for economic development. At the same time, these installations may expose the environment to significant risk, given the hazardous nature of certain operations. This risk profile makes legal intervention unavoidable. Within the limits of the State’s capacities and national context, Algerian lawmakers have developed a technical legal framework intended to reconcile investment in classified installations with environmental protection, relying on several complementary mechanisms.

### **5.1 Green economy orientation**

The United Nations Environment Programme defines the green economy as an economy that advances human well-being, promotes social equity, and reduces risks and harms threatening ecosystems and ecological resources<sup>22</sup>. In practical terms, it privileges environmental investment, understood as investment grounded in natural capital. Investment Law No. 22-18 addresses this orientation and expressly encourages it, notably through Article 26, which covers activities connected to natural-capital investment, particularly agriculture, aquaculture, marine fisheries, services and tourism, and new and renewable energies. These fields are treated as core entry points for advancing a green-economy trajectory, in line with the direction promoted by the New Global Green Deal (GGND), which recommended investment patterns centred on efficient resource use and reduced environmental stress, with expected gains for the economy and labour market.

### **5.2 Cleaner production**

Cleaner production is a continuous preventive strategy applied across industrial processes. It involves adopting cleaner techniques at each stage, from natural-resource extraction to product manufacturing, distribution, and end-of-life disposal. On this account, cleaner production is often presented as a workable route for operationalising sustainable development: it enables more efficient use of natural resources and energy, lowers waste and emissions, and limits environmental impacts by acting upstream, before pollution materialises<sup>23</sup>.

### **5.3. Renewable energy integration**

Worldwide, there is a gradual move away from conventional energy sources that are environmentally damaging and vulnerable to depletion, toward renewable sources generated from non-exhaustible inputs such as wind, solar, and water resources. Algeria has translated this orientation into a legislative and policy framework. It includes Law No. 04-09 of 14 August 2004 on promoting renewable energies within sustainable development, as well as the 2009 Supplementary Finance Law establishing a Renewable Energy Fund. This

framework is reinforced by incentive and regulatory measures, including tax and customs advantages for projects that promote renewables. Investment Law No. 22-18 reflects the same direction by prioritising investment in new and renewable energies and listing them in Article 26 among activities eligible under the sector-based regime. The underlying rationale is that these areas can generate public revenue while supporting broad, durable development outcomes<sup>24</sup>.

### **Conclusion**

This study of the balance between environmental protection and investment promotion in the regulation of classified installations under Algerian law suggests that both public authorities and investors face persistent constraints in reconciling economic expansion with environmental safeguarding. Algeria has sought to attract investment and develop its industrial sector by easing procedures and reducing bureaucratic impediments. At the same time, it remains responsible for protecting the environment through environmental legislation and the way that legislation is implemented in practice. On that basis, the analysis yields the following findings and recommendations.

### **Findings**

- The legislative framework governing classified installations remains inadequate, despite the scale of the environmental risks associated with such activities.
- The administrative sanctions provided by Algerian lawmakers have limited deterrent effect as a tool for environmental protection.
- Algerian lawmakers show a clear orientation toward adopting internationally recognised environmental principles, particularly the green-economy principle and cleaner production.
- The legislator has adopted an incentive-based approach to support environmental investment, especially in the sectors of new and renewable energy.

### **Recommendations**

- Strengthen environmental oversight and ensure rigorous enforcement. This requires improving inspection and monitoring mechanisms and verifying that classified installations effectively comply with environmental standards.
- Reassess the administrative sanctions regime and increase its severity where necessary, so that deterrence is achieved in practice rather than remaining merely declaratory at the level of legal texts.
- Make environmental awareness-raising and public sensitisation mandatory, with targeted communication on the risks posed by environmentally harmful classified installations across all segments of society.
- Clarify and further develop the legal regime governing classified installations by reinforcing it through additional legal provisions that address identified gaps.
- Encourage innovation in clean industry by incentivising firms, through financial and legislative measures, to adopt environmentally friendly industrial technologies capable of reducing the environmental footprint of industrial activity.
- Expand awareness and training in environmental investment by organising workshops and targeted programmes for investors on how to balance industrial growth with environmental protection, with a view to strengthening understanding of environmental sustainability as an operational requirement.

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