

## Crimes against Forests in Algerian Legislation

### الجرائم الواقعة على الغابات في التشريع الجزائري

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#### Abstract :

The protection of forest property is one of the important subjects that has attracted the attention of the legislation, as it is strongly linked to the environment and sustainable development. The preservation of natural resources is everyone's responsibility. This wealth benefits individuals and animals of all kinds, especially those living in forests. This is why Algerian legislation establishes a criminal protection regime for forest property in the Penal Code and Law 84-12. It defines a series of attacks on forest property, which is an offence punishable by law. In these laws, the legislator also distinguishes between crimes, offences and offences, according to their seriousness and the seriousness of offences against forest wealth and their negative long-term effects.

The purpose of this study is to highlight the offences set out in the Penal Code and Law No 84-12, affecting forest property, as well as the penalties in this regard.

**Keywords:** crime, forest property, livestock, fires, vandalism.

#### ملخص:

إن حماية الأملاك الغابية من المواضيع المهمة التي حظيت باهتمام التشريعات، نظرا لارتباطها الكبير بالبيئة والتنمية المستدامة، فالمحافظة على الثروات الطبيعية مسؤولية تقع على الجميع، فهذه الثروات يستفيد منها الأفراد والحيوانات بمختلف أشكالهم، خاصة الذين يعيشون في الغابات. ولهذا وضع المشرع الجزائري نظام حمائي جزائي للأملاك الغابية في قانون العقوبات والقانون رقم 84-12، وحدد مجموعة من الإعتداءات الواقعة على الأملاك الغابية، والتي تشكل جريمة يعاقب عليها القانون. كما فرق المشرع في هذه القوانين بين الجرائم ذات صنف الجنایات والجرح والمخالفات، وذلك حسب جسامتها ومدى خطورتها على الثروات الغابية والأثار السلبية التي تتركها على المدى البعيد.

وتهدف هذه الدراسة لتسليط الضوء على الجرائم التي نص عليها قانون العقوبات والقانون رقم 84-

12، الماسة بالأملاك الغابية، والعقوبات المقررة لها.

الكلمات المفتاحية: الجرائم، الأملاك الغابية، الثروات الحيوانية، الحرائق، التخريب.

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### Introduction:

The forest is rich in plants and animals and plays an important role in the natural balance. It is also an important resource for some people who benefit from its wealth. It has great economic and social value in maintaining and benefiting the livestock people.

In order to preserve the forest, the Algerian legislature has adopted a legal regime for the protection of forest property as it has become of great importance as an important environmental element in the continuation and stability of mankind. of aggression and attrition by irresponsible persons, and many forms of aggression that deplete and reduce natural resources And it harms the forest and agricultural lands and their future. This protection included a set of rules, the violation of which is the perpetrator of the offence of aggression against forest property.

Offences under the Penal Code and the Forestry System Act 84-12 are among the most important that affect the forest, whether it is a crime, a crime or an offence. The legislator defines these offences, adaptations and penalties, according to the severity and severity of any conduct on forest property.

The importance of protecting the forest from aggression lies in the great role of the forest in human and animal life. It is home to most animals, and is a livelihood for many, protecting both humans and animals.

We have taken the analytical approach, in analysing punitive texts and drawing the intention of Algerian legislators to establish a deterrent penal system for a series of behaviors that affect forest property, threaten its existence and the proliferation of livestock

The study should ask: **What is the criminal form of attacks on forest property?**

To answer this question, we have divided our research as follows:

- forest offences under the Penal Code
- Forest offences under the Forest Act 84-12

### 1 - Forest crimes under the Penal Code

Crimes against forest property differ between crimes, crimes and irregularities. This diversity was established by the legislator because of the equal gravity and the extent to which they affect the forest area. The crimes are the most serious and serious of these acts. Referring to the Penal Code, the legislator makes a difference between two types of crimes against forests: burning and sabotage, which we will deal with as follows.

#### 1 – 1 Crimes relating to forest fires

Fires are considered to be the greatest risks to forests, their outbreak can lead to major environmental disasters, affecting the forest and its vital functions and the organisms that benefit from their presence in the forest. The legislator has designated it as a crime and also a crime, and we will treat it as follows.

### 1 – 1 – 1 Crime of arson in the forest

The Algerian legislator is responsible for the intentional burning of forests by describing the crimes in articles 396 and 396 bis of the Penal Code, because of their danger to forest wealth and the resulting damage to man, the animals and the environment in which they live.

Article 3/1 of Law No 19-02 on General Rules for the Prevention of Fire Risks and Consternation defines fire as "an unattended outbreak in time and in the vicinity of a fire".

Burning or burning is the deliberate ignition of the fire using intentionally flammable materials and with the intent to cause damage to forest property, for which purpose described by Parliament as a crime, for completeness and expansion of damage, as well as long-term damage.

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Article 396 bis of the same law states: "Imprisonment for life shall be imposed if the offences referred to in Articles 395 and 396 relate to the property of the State and the property of local groups, institutions or bodies governed by public law."

In Article 396, paragraphs 3 and 4, of the Penal Code, the Algerian legislator specifies exclusively forest property covered by fire. forests, planted fields, trees and their provinces, Whether in good condition or after being cut and damaged and the Algerian legislator made the act of race encompass all the components of the forest, Above all among them are the trees related to the nature of the earth, It remains after the legally authorized pieces and strips, which are stacked after this work in the form of piles and packages.

The offence of burning forests or forest property is a positive act or behaviour of deliberately burning forest property such as land. Trees, plants, whether in their natural state or after cutting them for the purpose of burning them by means such as falling sulphur sticks Gas, inflammatory substances or cigarettes, Other means of setting fire to another's property or state property.

P Once the perpetrator intends to burn, the crime of burning is committed regardless of the object, result or intensity of the act. The intentional intent here is as soon as the author knows that the property he burned is the forest property defined by the legislator in the text of article 396.

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l The act of burning is accomplished by setting fire to the object of the crime, namely the forests, the forest goods and all that falls within its concept, and does not concern the means used to burn. It can be by dropping a stick of sulphur or by pouring some kind of oil, gas, rapid inflammatory substances or other means of setting fire<sup>2</sup>.

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e In view of Article 396 of the Penal Code concerning the burning of forests or forest property belonging to others, the Algerian legislator approved a sentence of 10 to 20 years imprisonment. But the sentence that Article 396 has been intended to lift imprisonment, property of forest property is not immediately the state or 10 to 20 years imprisonment: "... forests and fields planted in trees or logs placed in piles and in cubes, existing crops, straw or crops placed in piles or packages..."

We note that the legislator has stipulated that these goods must not be the property of the person who kindled the fire, that is, not belong to him, and that these goods may be the property of individuals, including fields and forests<sup>3</sup>, such as palm groves and olive groves, where burning is a criminal offence punishable by law.

Where the burning of forests or forest property results in the death of one or more persons, the penalty shall be carried to death. If this results in a permanent impairment, the sentence is life imprisonment, in accordance with Article 399 of the Penal Code.

### **1 – 1 – 2 Crime of unintentional forest fire**

Article 405 bis of the Penal Code<sup>4</sup> : "Anyone who inadvertently causes a fire that damages the property of another person is liable to imprisonment of between 06 months and 03 years and a fine of between 10.000.000 and 20.000 DZD.

Frivolity and negligence are a condition for the crime of the unintentional burning of another's property.

The criminal behavior here is the result of the lack of attention and precaution that should be available in the ordinary human being from the use of fire or quick-flaring materials in the woods, For example, a match was thrown in the middle of grass piles, plants and trees in the forest. Or do not clean ovens and chimneys in which the fire burns<sup>5</sup>, A person must be aware of the gravity of his use of the fire or the equipment that triggers it so that his lack of precaution does not lead to the spread of the fire and damage to others.

To commit this crime, there must be a forest fire caused by the fire and spread it in the forest, i.e. in trees and grasses. Parliament criminalized this act of inadvertently burning the property of others and considered it an offence. That is, this offence is committed by the offender on the property of others, and here we conclude that a person can start a fire with his forest property. and "do harm to others or spread fire on parts of the earth which he does not possess, or smoke and smell animals and humans near the burning fire.

This offense is reached regardless of the means used matches, discarding cigarettes or rapid inflammatory substances and others. As long as this crime is inadvertently committed or neglected by the perpetrator because of a lack of attention, prudence and frivolity, such as throwing burning cigarettes between trees, not cleaning chimneys where the fire burns, especially for people who live in the forest, or throw objects easy to burn.

Referring to the previous article, Algerian lawmakers have approved a sentence for minor offense. The offender may avail himself of the public use sentence rather than imprisonment as a maximum penalty of 03 years imprisonment, with other conditions for the recognition of that sentence, especially if a maximum penalty of one year is imposed. The public utility penalty is applied for the purpose of working in the department of forest property by fixing working hours under the supervision of the forest management, such as work for the protection of trees, plants and others.

### **1 – 2 Crimes of forest vandalism**

Forest wealth is one of the most important national assets that benefits everyone. It must be protected from any act prejudicial to its continuity and existence. Crimes of sabotage are considered one of the most serious violations of forest wealth. In this section, we will treat these crimes according to their seriousness and the circumstances of their commission, as follows.

#### **1 – 2 – 1 Crimes of forest vandalism**

The offence of sabotage is generally intended to damage and waste money in a random manner that is not aimed at a particular money, but to disrupt the use of the object and its use<sup>6</sup>, by any means such as bulldozers, vehicles, explosives, or even using the human hand to cut, damage and others.

This offence was criminalized under Article 401 of the Penal Code<sup>7</sup>: “Any person who, by means of a mine or other explosive substance, demolishes public roads, dams, reservoirs or roads, bridges, commercial, industrial, iron, port, air or operational facilities, or a vehicle for the production of a public building interests, will be punished with death.

The offence of sabotage of forest property is a positive and intentional act of damaging its components, such as land, trees, planters or plants, for the purpose of destroying and not using them, using mines, explosive substances, large vehicles or other vehicles. For such a crime, forests or forest property must include buildings, roads and facilities that provide public services such as barns and nature reserves.

The Algerian legislature approved the death penalty and this is due to the importance of these goods, the public good of society and the same punishment if it results in the loss of the life of one or more persons. If it causes only injury or disability, the sentence is life imprisonment.

If the purpose of the sabotage is to get hold of forests or forest property for the unjust occupation of terrorist acts, the penalty is increased in accordance with Article 87 bis of the Penal Code, as follows: Death 17 If the penalty is life imprisonment, life imprisonment if the sentence is 10 to 20 years, temporary 10 to 20 years if the sentence is 05 to 10 years.

In addition to Penalizing these behaviours and calling them Penal offences in the Penal Code, Algerian legislation Penalizes certain behaviours that violate forests but make them an offence.

The legislator tightened the prescribed penalty for the crime of vandalism, which is due to the vital and social importance of these real estate. And the author has a great audacity, which counts with the use of explosive and prohibited substances is a Penal in the first degree who deserves the most severe punishment. and, second, that by committing this act, the offender would cause the greatest amount of serious harm, which can result in the loss of many lives, so that the actor here knows how dangerous driving is and its impact on forest wealth and human life.

This offence is committed with Penal intent, which obliges the author to know that the areas he vandalized and demolished are forest property that the legislator has forbidden to violate, as stipulated in articles 400 and 401 of the Penal Code, provided that it is willing to cause vandalism and damage to these forest areas.

### **1 - 2– 2 Trespassing on forest property**

- **Offence of sabotage of culture**

Article 413 of the Penal Code<sup>8</sup> states: "Anyone who destroys existing crops or Agras that have grown naturally or through human labour is liable to a prison sentence of 02 to 05 years and a fine of 500 to 1000 DZ. In addition, the offender may be sentenced to deprivation of one or more of the rights set out in section 14 of this Code.

This crime is caused by the vandalism of forest diamonds, which requires a certain material consequence of logging and the destruction of trees or shrubs. or to uproot them, break their branches, peel them or corrupt their order by throwing contaminated materials, For the purpose of damaging it or its owner<sup>9</sup>, whatever means such as bulldozers, Vehicles, saws, axes or even the human hand, etc., crime is carried out both for forest crops of plantation trees. rights ", shrubs, which grow naturally without human intervention or those inculcated by man on condition that they belong to another or to the State.

Penal conduct in this crime is accomplished in any physical conduct to damage forest property and change its form and nature. It is also every act that damages trees, shrubs, components and the inherent dirt, whether this vandalism is using tracts, axes, huge machines and vehicles. Traditionally manually, using the human hand and some simple tools.

The Legislative Assembly identified the offence of sabotage of forest property by damaging existing and land-related crops and planters. Planting means all plants rooted in them, from planting and shrubs, whether sterile or unproductive, which are considered real estate in nature<sup>10</sup>.

The Algerian legislator explained that this crime includes all types of trees, shrubs, planters and forest crops, as they grow naturally without human interference, as well as all trees, plants and planters planted by man, such as peasants.

As the legislator has pointed out, such a forest property as a crime of vandalism must not belong to the person responsible for this crime. To commit this crime, crops and planters must not belong to the perpetrator, and there is no expression of a crime, because these crops and planters cannot be vandalized under any justification whatsoever<sup>11</sup>. As long as it is in the possession of the person who planted it and everyone has the right to vandalize and destroy the planters and crops owned by them, for legitimate reasons and without prejudice to others.

While Parliament has made a distinction between the crime of subversion in section 401 as a Penal offence and the crime of subversion in section 413 as a crime, distinguishing between the tools used in the investigation of these Penal driving mines and explosive substances in crimes, because of the serious effects of these substances after use It can be said, however, that its result is close: damage to forest property, change its form and nature and even damage livestock, and can also be dangerous to humans.

The Algerian legislature approved a penalty of crime between 02 and 05 years and a fine of 500 to 1000 DZD. In addition, the offender may be sentenced to one or more of the rights set out in Article 14 of the Penal Code<sup>12</sup>.

- **Forfeiture of property for minor offence**

Under Article 386 of the Penal Code<sup>13</sup>, the Algerian legislator provides for the offence of violation of forest property, which is a Penal provision for any Penal conduct that constitutes an attack and a danger to property in general and to forest property in particular.

The offence of intrusion into real property consists of a set of elements that constitute a condition for its realization, as recognized by Algerian legislation in Article 386 of the Penal Code, which stipulates: A sentence of one to five years imprisonment and a fine of 20,000 DZD to 100,000 DZ will be imposed on any person who slips property belonging to others or surreptitiously or by fraudulent means. If the disposition of property occurs at night by threat or violence by escalating or breaking several persons or by carrying an apparent or concealed weapon by one or more perpetrators, the sentence is two to ten years imprisonment.

- **Seize property belonging to others**

According to Article 386 of the Penal Code, the author commits a positive act of seizing the property of others and removing them by violence and force and without the consent of the owner, using all the means at his disposal to carry out this aggression. The offence is committed here, whether the offender committed it himself or whether he used others to do it for his benefit. This crime also includes anyone who contributes directly to its implementation, anyone who incites, threatens,

promises, abuse of power, circumvent, defraud or order the commission of this crime and all those who have aided in every way and by every means facilitated and knowingly implemented<sup>14</sup>.

The legally Penalized extraction provided for in Article 386 of the Penal Code is different from expropriation procedures for the public good. The latter is regulated by its own legal procedures and controls.

Penal extraction here is the taking and possession of property and the deprivation of its owner. The removal of forest property is done by seizure. It is not an acquisition of control or an extraction of property. The extraction here is an illegal entry without the owner's permission.

And grabbing here must be on forest property as real estate by nature, trespassing on trees and dust and everything inside is not in the concept of grabbing. These actions have another adaptation, such as theft or vandalism.

Article 386 of the Penal Code also explains the Algerian legislator's requirement that forest property must belong to others, that is to say to a non-contrevenant, whether it belongs to individuals or to the State. Thus, the property here must be owned by others before the crime occurs until the assault.

### - **Damage to jungle property by unfortunate and fraudulent**

Under Article 386 of the Penal Code, the legislator stipulates that damage to forest property must be surreptitious. Although the legislator does not know what is wrong here, it is clear from the text of the article that alienation is here without the consent or knowledge of the owner of the forest property.

Fraudulent methods are the means used by the author to extract forest goods by fraudulent means.

### - **Night, threat, violence, escalation, break and enter, multiple actors, carrying weapons**

In paragraph 2 in article 386 of the Penal Code, the Algerian legislator deals with the aggravating circumstances defined by: Night, threat, violence, escalation, rupture, multiplicity of actors, carrying weapons, and these cases of aggravated punishment if combined with the act of aggression, the Algerian legislator coupled dispossession, misappropriation and fraud with these circumstances, and intensified the punishment and seriousness of the cases mentioned by the legislator if it is actually coupled with the initial act of disposition and fraud.

For aggravating circumstances, the sentence is increased from 1 to 2 years and from 5 to 10 years.

The Algerian legislator has imposed deterrent sanctions for any aggression against real estate, without specifying the type of real estate, and therefore the violation offence in all its forms applies to forest property, especially as the latter is most vulnerable to encroachment due to the lack of effective control to protect it from the influx and vandalism of individuals.

The crime of extracting forest property must also have Penal intent. And it's the science and direction of the author's will to actually make the Penal, however, the problem can arise if two adjacent property boundaries are not defined the property without knowing that it belongs to others, But this means that the crime happens even if he knows the responsibility at the border.

The offender should be aware that trespassing on property is a punishable offence and, nevertheless, the offender's desire to remove the forest property by seizing it.

### 1 – 2 – 3 Violation of forest tree vandalism

The legislator has identified certain Penal behaviour as a violation, consisting in the destruction of forest property, because they are less serious than crimes and offences, both in terms of impact and punishment for each crime, and protection of forests, forest lands and other forest formations.

Article 444/01 of the Penal Code<sup>15</sup> states: "A sentence of imprisonment of at least 10 days to two months and a fine of 100 to 1,000 DZ or any of the following is imposed: Anyone who uproots, vandalizes or peels a tree to be consumed, knowing that it belongs to others, and anyone who destroyed a food, and anyone who has cut weeds, ripe seeds or green seeds knowing that they belong to others.

The crime is based on vandalism by uprooting, cutting and peeling forests, such as trees and shrubs. and other behaviors affecting forests and their contents, as it is generally said, without specifying which species of trees were fertile or not by nature were wooded or otherwise, and the crime is committed even if the vandalism affects a tree. Human rights "provided that they belong to others and that the crime takes place.

The offence of vandalizing wooded areas is to cut trees and shrubs, cut branches of trees, remove leaves and fruit, peel them or even dig the surrounding soil.

Under Article 444 of the Penal Code<sup>16</sup>, the offence is punishable by a maximum penalty of 10 days to two months and a maximum fine of 100 to 1000 DZD, or one of both. The offender may be sentenced to up to DZ40,000 instead of the original sentence.

We note that the text of this article is complete, not limited to a specific type of tree or to be the property of the author or others, since the Penal Code has an overall view of the protection of trees wherever they exist, and therefore forest properties benefit mainly from this provision.

Under Article 444 of the Penal Code, we note that the legislator has set the minimum threshold for trees that are subject to destruction and vandalism and are a tree, Although he has not set the limit, making this text vague in the case of tree pluralism and excitement, Here the text of this article cannot be applied as a violation of the act of saboteur here. It's the opposite of weeds and mature seeds. The text here is a year. Authority is appreciated.

The offence of contravention of vandalism is achieved in accordance with article 444 of the Penal Code by the availability of special Penal intent. It is understood that the act of vandalism, cutting and uprooting of trees, weeds and seeds belonging to others is an offence punishable by law, and nevertheless its will to do and investigate it<sup>17</sup>.

What is worth noting is that the act of vandalism, uprooting and cutting off a person's property is not a punishable offence.

In addition to the offences stipulated in the Penal Code affecting forests in particular and the general environment, which Algerian legislation considers to constitute serious offences that threaten the forest's wealth and the environmental environment further, it has imposed penalties ranging from felony, misdemeanour and offence<sup>18</sup>.

## 2 - Forest offences under the Forest Act 84-12



Algerian legislation has included in the Forest Law<sup>19</sup> 84-12 on Public Order of Forests a series of offences that are considered an assault on forest property and cause damage to the existence and sustainability of livestock.

## **2 – 1 Forest offences**

Algerian legislation has imposed Penal protection for forest property, namely the provision on crimes against forest property in Forest Law 84-12, and we will work to identify these Penal behaviours and sanctions as follows.

### **2 – 1 – 1 Tree uprooting**

In accordance with Article 72 of Law<sup>20</sup> 84-12 on the public order of forests "The offence of any act that would cut or extract trees that have been planted, planted or naturally germinated for less than 05 years, The Algerian legislator imposed a sentence of two months to one year imprisonment and doubled the fine from 2,000 DZ to 4,000 DZ. If the trees are less than 20 centimetres and 1 metre above the surface of the Earth, and in case of recurrence, the penalties are doubled.

Cutting trees or shrubs means removing them from their branches or peeling them. If the act constitutes conduct that results in damage to forest property and its contents<sup>21</sup>, such as removing them from their roots manually or using axes and saws or deforming them with any means or contaminated with hazardous substances or wastes, spilled harmful substances on them to prevent them from growing.

For trees planted, planted or naturally germinated less than five to five years, the fine is doubled and two to one month's imprisonment may be imposed. In any case, the sentence is doubled in the case of recidivism.

### **2 – 1 – 2 Offence of carrying or raising trees**

According to Article 73 of the Forest Law<sup>22</sup>, anyone who lifts or transports trees on the ground, lifts firewood, converts it or moves it elsewhere is liable to the same penalties as for the previous offence, a fine of 2000 DJ to 4000 DJ, or two months to a year in jail.

We believe that Parliament has imposed the same sentence for both offences, since transportation and removal can be associated with cutting and uprooting first, sometimes successively. The second is sometimes only reached by the first.

If the offender commits the offence of moving the trees, the penalty is doubled for the penalty and imprisonment from 4,000 to 8,000 and from four months to two years.

It should also be noted that the offence of transport may be adapted as the offence of theft provided for in the Penal Code, which is punishable by 15 days to one year imprisonment and a fine of DZ 500 to DZ 1000. The theft of trees or residues is considered as a violation of forest property by the theft in accordance with article 361/3 of the Penal Code<sup>23</sup>.

### **2 – 1 – 3 Erosion of forest properties Mischief**

. The degradation of forest property is a project authorized by the Algerian legislator under the license granted by the department responsible for erosion, according to the applicant's request and purpose.

In this case, after examination of the application, the authority of a person authorizes the use of the forest resources and the exploitation of the forest, to the extent permitted by the licence and the law, but some people may be arbitrary in the use of this right of exploitation granted to them by law, and therefore regulate certain rules to which the person must comply.

The band licence requires here that the work of stripping include forestland, which may belong to others, without exceeding the forest property of the State.

The offence of erosion of land means any operation resulting from the reduction or reduction of the area of the forest, whether related to trees, plants or soil, which consists in cutting or destroying the forest wealth and taking it away, no matter who wrote it<sup>24</sup>.

Erosion is any existing law that damages forest property by reducing vegetation of all kinds, including plants, trees and forest cover, causing degradation and non-erosion.proliferation, and the author may be a natural or legal person as a public or private institution.

Algerian legislation defines land erosion in Article<sup>25</sup> 17 of Law No 84-12 as the process of reducing the area of forest wealth for purposes other than those that promote its creation and development.

What we notice about this crime is that not only the trees, shrubs, and plants, but also the soil and everything in the forest. This crime includes all actions that reduce the area of forest property and damage the existence and continuity of nature.

Article 79 of Code 84-12 provides for a fine of 1000 to 3000 DZ. In case of erosion of the land in the national forest property, the provisions of this law are violated. For this offence, the minister responsible for forests must obtain a permit. In case of recurrence, the offences are punishable by one month to 6 months and the fine doubled.

The offense of degradation and reduction of forest property includes all behaviors that are not based on a prior administrative authorization after having taken the opinion of the local communities under article 18 of law<sup>26</sup> 84.12. Deforestation poses a serious threat to forest property and the living organisms in which it lives and benefits.

## **2 – 2 Offences against forests**

The Algerian legislator has put in place a system of punishment for certain behaviours that can threaten forest and animal wealth and its proliferation. He approved sanctions that were proportionate to the offender's law in each case and called them offences. We will address these Penal behaviours and sentences as follows.

### **2 - 2 – 1 Infringement of the use of cork**

The legislator authorized the exploitation of forest property in Executive Order No. The seizure of the areas concerned in the national forest property for rehabilitation is carried out on the basis of technical measures. Economic measures and environmental protection measures shall be established by decision of the Minister responsible for Forestry and at the suggestion of the Ministry of Forestry and the application for an operating permit shall be published by the competent Ministry of Forestry; Where to establish a committee to review these applications and determine their composition and operation by a joint decision of the Minister of Finance and the Minister of Agriculture. The files include: the applicant's application, the nomination card for the piece to be repaired and the recording of the total work to be done and the deadlines.

The license of exploitation is granted by the Forest Department on the basis of a designation card in the form specified in this decree and its application on national forest lands is in accordance with a book of conditions, with the possibility of State participation in the rehabilitation by paying the fees.

Forest management may also renew and withdraw the exploitation licence at any time at the request of the beneficiary, by mutual agreement or by public interest before the expiry of the term, resulting in compensation.

The permit cannot be used if the parcel is stripped of its vegetation as a result of illegal reclamation or fire, and the Department of Forests takes the necessary steps to reconfigure the original vegetation, and no applicant benefits from the licence in case of illegal or proven restoration as having caused the forest fire.

The use of cork must be the subject of an administrative authorisation issued by the competent administration in accordance with Articles 34 and 35 of Forestry Law<sup>27</sup> No 84-12. Therefore, this article cannot be exploited by extraction or transfer without the consent of the Forest Department.

As Penal legislation is the direct source of crime, which makes the rule of law binding, the legal provisions and procedures established for the exploitation of corks must be respected. The Algerian legislator has therefore determined that any act consisting of extracting cork or removing it from its place by fraud constitutes an offence punishable by law and qualifying it as a violation.

The offender is liable to a fine of 1000 DZ to 2000 DZ per pound. In the case of repeat offences, the legislator increases the sentence to 15 days to 2 months imprisonment with double the fine.

What we note in this crime is that the legislator has specified the penalty for transporting cork in the quantity extracted and transferred to it, plus the weight of the cork extracted and transported words increase the value of the fine.

### **2- 2 – 2 Exploitation or transport of forest products**

The legislator has authorised the exploitation or transport of forest products, provided that they have received a licence issued by the competent authorities. As with other activities, any activity without a permit is considered illegal.

Forest ownership is a source of wealth that benefits everyone. Everyone has the right to use it and the wealth that comes from it. However, some people may abuse the right to exploit forest wealth, which damages forest property and thus the environment and the human person in general.

The Algerian legislator regulates the exploitation of the forest property of some people, but not others, and limits this exploitation to areas of their use in daily life, such as grazing and the exploitation of forest products, under Act 84-12<sup>28</sup>.

Pursuant to Section 35 of Act 84-12<sup>29</sup>, Section 2 of this Order states that any person may recover forest property. Any investment in forest property aims to make it productive by:

- Plant fruitful trees, forages and forest trees,
- creation of nurseries specializing in the production of productive seedlings,
- raising small animals such as bees and poultry;

- Correction of plains and all other actions related to soil protection,
- To develop spaghetti land by developing non-polluting activities.

Any person who wishes to recover forest property and use part of it may apply for the permit from the Ministry of Forests, which must be accompanied by the following documents: The identity card of the permit applicant, the identification card to be restored, which is a decision of the Minister responsible for Forestry following a proposal from the Ministry of Forestry, is a record of the activities that the applicant wishes to carry out.

Specify the type of activity he wishes to carry out, which must be part of the activities specified in Article 2 of Executive Decree<sup>30</sup> 01-87, except the rejection of his request.

Before the delivery of the exploitation permit, a conditions book is prepared and determined by the legislator under executive decree 01-87, and the conditions book is enlightened between the Forest Department and the beneficiary and that this book contains the qualifications, scope and duration of exploitation, If the beneficiary of this exploitation contravenes the provisions of the Conditions, the license will be withdrawn, in accordance with article 13 of Executive Decree 01-87.

The holding here includes all forest properties of all kinds, the exploitation of agricultural areas by ploughing, planting and harvesting their crops, the exploitation of urban areas by occupying them by housing or renting them, exploit industrial properties by exploiting industry and production of various types and by taking advantage of the forest products made available to the licensee.

Under section 75 of Code<sup>31</sup> 84-12, the exploitation or transportation of forest products without a licence is considered a crime punishable by ten days to two months' imprisonment and forfeiture and payment of the proceeds.

The exploitation of natural resources in the forest property includes all the resources above and within the earth's surface, whether it be stones, earth or sand, of course, trees and plants, and anything that comes under the concept of a forest revolution, which can be exploited by individuals.

In the case of the extraction or lifting without permit of stones, sand, minerals or dirt in the national forest property for the exploitation imposed a fine of 1.000 DZ to 2.000 DZ for each wagon load, 200 DZ to 500 DZ for loading each tank dragging from 100 DZ per tank load, from 50 DZ to 100 DZ per person In case of recurrence, the offender may be sentenced to a prison term of 05 to 10 days and the fine doubles.

### **2– 2 – 3 Violation of Tillage and Forest Planting Permit**

Originally, ploughing and cropping were the basis for the right to benefit the owner or licensee. Therefore, the legislator considers any act of plowing or planting in a forest property without the authorization of the bodies responsible for doing so as an offence punishable by law as a violation.

Transplanting and ploughing are material works that directly affect the form and content of forest property. It is a form of exploitation that leads to the use of something, its fruits, its products and what is extracted from forests.

Initially, ploughing and planting are the actions of the owner of the forest who has the right to benefit from it, or of the person approved by the forestry department responsible.

In the case where the person does not have the prior permit to plow and plant the land, we are for an offence punishable by law, punishable by a fine of 500 DZ to 2000 DZ per hectare. In the case of recidivism, the prison sentence is increased from 10 days to one month.

We note that the legislator has decided to lift the penalty of the fine in the area under attack, plus the ploughed or planted area of the hectare, plus the value of the fine.

#### **2 – 2 – 4 Offence of incineration of plants, firewood or fire**

According to Article 83 of Law<sup>32</sup> No 84-12, incineration of plants, wood, reeds or the burning of forests or nearby is a punishable offence.

Incineration is supposed to be the total combustion of forest plants, wood and reeds until they turn into ash and coal. The Algerian legislator imposed a sentence of 100 DZ to 1000 DZ, and in case of repeat the double fine, indicating that if the unintentional fire provided in the Penal Code spreads.

It is a crime similar to the crime of burning, where they are involved in burning forest property and endangering the organisms in which they live and forest wealth, so the legislator tried to mention all the Penal acts involved in the form of a burn even though it was intended for something other than setting fire.

#### **2 – 2 – 5 Violation of refusal to provide fire assistance**

The offence stems from the passive behaviour of the perpetrator in refraining from helping him put out the forest fires. No one can refuse to make his contribution if the authorities responsible for forest fires make fun of him. The State guarantees the compensation of the persons concerned.

According to Section 84 of Act<sup>33</sup> No 84-12, refusal to provide assistance in the event of a fire is an offence punishable by any person who does not contribute to firefighting and the refusal to contribute without justification. Algerian lawmakers awarded him a fine of 100 to 500 DZ. In the case of a repeat offence, the offender may be sentenced to 10 days in jail for one month and a double fine.

The order applies to persons who have been harnessed by the authorities competent to fight the State must provide for all losses caused to them and their property used to put out the fire, This is article 20 of law<sup>34</sup> no. 84-12, and no one can deny that depreciation. In this case, the legislator granted them the privileges of assistance, as well as public assistance in reparations.

We note that such offences are punishable in the Forest Act only by fines, whereas the penalty for deprivation of liberty is only in cases of recidivism and does not exceed two months.

#### **2 – 2 – 6 Building offence without a permit on forest property**

The building is intended to carry out construction work on or near forest lands. Algerian legislation has witnessed all forms of construction by the aggressor on or near forest lands, whatever the purpose of these facilities, whether for professional or residential purposes.

Thus, any construction on forest land is an offence punishable by a fine of between 1000 and 50000 DZ, or from one to six months of imprisonment under Article 77 of Law<sup>35</sup> No 84-12.

However, the legislator has determined the legality of such acts if the person obtains the building permit from the competent administrative body.

**Conclusion:**

Attention to forest ownership is one of the themes related to environmental protection and sustainable development. Therefore, its Penal protection must be obtained by Penalizing all serious violations, as national wealth for the benefit of individuals and animals. It is a great social and economic gain for all.

The offences provided for by the Algerian legislator in the Penal Code and Law 84-12 differ between a Penal offence, an offence and an offence, depending on the seriousness of the offence and the seriousness of the offence against the wealth of the forest.

• **Results**

- The policy of the Algerian legislator to Penalize perpetrators of attacks against forest property aims to protect and preserve natural resources and to ensure that they do not violate them by threatening their existence and sustainability.
- The recourse of the Algerian legislator to a system of punishment, in which the acts constituting an attack on forest wealth, under the Penal Code, are classified according to their severity and damage. These are crimes, offences and irregularities. It also establishes deterrent and punitive mechanisms for such crimes against the forest.
- The legislator regulates the right to exploit forest property and the related procedures and conditions. This exploitation is an inevitable consequence of the economic and utilitarian importance of the forest for the benefit of the individuals and animals in which it lives.
- The system established by the Algerian legislator in the Penal Code No. 84-12 combines the provision of the right to exploit forest resources and the achievement of Penal protection for them. It is an integrated system that supports forest properties and the continuity of their vital economic and productive functions for the benefit of all.

• **Recommendations**

-- We call on the Algerian legislature to change only the section that establishes the penalty for subversion crime is equal in penalty between the person who sabotages Ghosn and the person who sabotages a group of bushes, and this is unbalanced in damage, Thus, the penalty must be limited to the number and areas of vandalized forest property so that the penalty is fair.

- We recommend that the Penal Code increase the level of violation of tree vandalism to a vandalism offence. This is because the act of vandalism of the forest property, even if it is simple or limited to a single tree, degrades the forest property, the environment and its beauty and its ongoing conservation of the livestock in which it lives.

- Action to activate legal mechanisms to combat crimes against forest wealth by applying the Penal rules prescribed by the Penal Code and the Forest Code. The provisions contain provisions to discourage attacks on forest properties.

- Intensify strict Penal follow-up against those accused of committing crimes against forests by coordinating the actions of forestry officers and judicial police officers to activate investigations and counter any person who tries to attack wealth forestry, prevent these crimes before they happen.

- Establish separate Penal rules and separate them from other laws to make them clear for their application, and expand the scope of legislative protection against forest property.

- <sup>1</sup> Ordinance 66-156 of 8/06/1966, containing the Penal Code, Official Gazette No. 49 of 1966 amended and supplemented by Law No. 21-15, of 12/28/2021, Official Gazette No.99,2021..
- <sup>2</sup> Al-Fadhil Khammar, Crimes on the Property, 2 edition, Homeh House; 2006.
- <sup>3</sup> Nasruddin Hanouni, Legal and Institutional Means of Forest Protection in Algeria, National Bureau of Educational Works, Algeria; 2001.
- <sup>4</sup> Ordinance 66-156 .
- <sup>5</sup> Wajdi Shafiq Faraj, useful in crimes of destruction, sabotage, unwinding and rape of possession, United Legal Issues, Cairo; 2011.
- <sup>6</sup> Mu 'awad Abdul Tawab, Mediator in Explaining Crimes of Vandalism, Damage and Fire, University Publications House, Cairo; 1989.
- <sup>7</sup> Ordinance 66-156 .
- <sup>8</sup> Ordinance 66-156 .
- <sup>9</sup> Al-Fadhil Khammar, op. cit., p. 114.
- <sup>10</sup> Muawad Abdul Tawab, op. cit., p. 83.
- <sup>11</sup> Al-Fadhil Khammar, op. cit., p. 115.
- <sup>12</sup> Ordinance 66-156 .
- <sup>13</sup> Ordinance 66-156 .
- <sup>14</sup> Al-Fadhil Khammar, op. cit., p. 116.
- <sup>15</sup> Ordinance 66-156 .
- <sup>16</sup> Ordinance 66-156 .
- <sup>17</sup> Nasruddin Hanouni, op. cit., p. 80.
- <sup>18</sup> Al-Fadhil Khammar, op. cit., p. 121.
- <sup>19</sup> Law No. 84-12, of 23/06/1984, containing the General Forestry Order, Official Gazette No. 26, 1984, amended and supplemented by Law 91-20, of 02/12/1991, Official Gazette No. 62, 1991.
- <sup>20</sup> Law No. 84-12.
- <sup>21</sup> Al-Fadhil Khammar, op. cit., 115.
- <sup>22</sup> Law No. 84-12.
- <sup>23</sup> Ordinance 66-156 .
- <sup>24</sup> Wajdi Shafiq Faraj, op. cit., p. 94.
- <sup>25</sup> Law No. 84-12.
- <sup>26</sup> Law No. 84-12.
- <sup>27</sup> Law No. 84-12.
- <sup>28</sup> Law No. 84-12.
- <sup>29</sup> Law No. 84-12.
- <sup>30</sup> Executive Decree No. 87-17, of 01/08/1987, containing amended and supplemented construction and reconstruction, Official Gazette No. 52, 1990.
- <sup>31</sup> Law No. 84-12.
- <sup>32</sup> Law No. 84-12.
- <sup>33</sup> Law No. 84-12.
- <sup>34</sup> Law No. 84-12.
- <sup>35</sup> Law No. 84-12.

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