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ARTICLE**Crime Prevention Mechanisms in Algerian Legislation –
Administrative Regulation as a Model****Cheddadi Mohcen**

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Abstract

The administrative activity of state institutions manifests in two aspects. The first is the satisfaction of the public needs of individuals, and the second is the preservation of public order within the state. Therefore, it can be said that administrative activity has two functions: one positive and the other negative. The positive aspect appears in the intervention of the public administration, as the representative of the state, in the lives of individuals to satisfy their various needs and demands in a way that achieves the public good. Since crime, before it represents a violation of individuals' rights, whether in their lives or property, constitutes an attack on the community's interest by threatening its security and violating its public order, the negative aspect of administrative activity—namely, administrative control and the imposition of certain restrictions and regulations on individuals' activities and public freedoms—has become more than necessary in the context of the modern state to preserve public order, ensure its security and stability, and prevent the occurrence of assaults, or more precisely, crimes. Administrative control is one of the most important and necessary functions of the modern state, through which it seeks to strike a balance between individuals' right to exercise their freedoms and activities and the preservation of public order in its traditional and modern forms (Amar, 2016, p. 01). This ensures the stability of relationships among its members and prevents the commission of various forms of crime. Thus, our study aims to examine the role played by the passive activity of the administration, or what is precisely known as administrative control, in preventing crimes or even reducing them.

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Introduction:**1. Administrative Control as a Preventive Measure for Combating Crime**

The rights and freedoms established by law for individuals are not absolute; they are limited by the principle of not infringing upon the rights of others. Otherwise, chaos would prevail in society, where the strongest would hold the upper hand. When the legal system, known as the state, was established, it took on the responsibility of regulating public rights and freedoms in a manner that ensures equality among all individuals on one hand, and achieves a balance between public and private interests on the other (Hamdi, 2008, p. 213). While international charters, treaties, constitutions, and domestic laws recognize many rights and freedoms for individuals, they also regulate the manner in which these rights are exercised, ensuring that their practice does not compromise the security and stability of society. This is where the concept of administrative control emerged. It is a form of balance between the public interest that the state seeks to achieve and the necessary respect for individual activities (Ali, 2009, p. 277).

Administrative control is one of the most important functions of the modern state. It represents the second aspect of the administrative activity of the public authority in its negative form, involving oversight and restriction of public

rights and freedoms to preserve public order. Through this, the state protects its security and stability, as well as safeguards individuals from the infringement of some on the rights and freedoms of others. To understand the nature of administrative control, we first examine its concept, followed by the elements on which it is based (Said, 2017, p. 03).

1.1 The Concept of Administrative Control

Administrative control holds significant importance in contemporary societies, especially in light of the growing idea of granting individuals the freedom to satisfy their needs on their own. This, in turn, necessitates the intervention of administrative control authorities to prevent this freedom from transforming into chaos. In the following, we will attempt to define administrative control and distinguish it from other forms of control, particularly legislative and judicial control.

1.1.1 Definition of Administrative Control

The definitions of administrative control vary from linguistic to doctrinal to legislative.

A. Linguistic Definition

The term "control" is derived from the root "dabat," meaning to bind, dominate, strengthen, or detain. Linguistically, control has several meanings. It may refer to precise definition, as in the phrase "the matter was defined," meaning it was determined with accuracy. It can also signify the act of catching someone who was hidden or being searched for, as in "the person was apprehended." Furthermore, it refers to written documentation that includes details whose significance might fade or be forgotten if not recorded. In legal terms, "documenting the incident" means to formalize an official report. Control also implies the necessity of something not being separated from it, meaning to preserve or maintain it. In this context, "a person in charge" refers to someone who is strict or firm. Sometimes, control is synonymous with supervision, implying the guidance of behavior, whether negative or positive. Thus, from this linguistic perspective, control encompasses various aspects of social, professional, and legal life (Manzur, 2008, p. 2549) (Maqdoud, 2017, p. 10).

B. Juridical Definition

The jurist Maurice Hauriau defines it as: "Everything that aims at maintaining public order in the state." The jurist Délaubadaire defines it as: "A form of intervention by administrative bodies, involving the imposition of restrictions on individual freedoms to preserve public order (Kherchi, 2016, p. 08)."

Professor Rivero defines it as: "The totality of administrative interventions that aim to impose restrictions on the activities of individuals in order to live within a defined framework of law (Tahari, 2012, p. 71)."

As for Arab jurists, Professor Taima al-Jarf defines it as: "The totality of orders, prohibitions, and binding directives issued by the public authority to regulate public freedoms or in connection with the exercise of specific activities, with the goal of protecting public order (Maqdoud, 2017, p. 13)."

The jurist Suleiman al-Tamawi defines it as: "The right of the administration to impose restrictions on individuals, limiting their freedoms for the purpose of protecting public order (Tahari, 2012, p. 71)."

C. Legislative Definition

In line with its counterparts in comparative legislations, whether in France or Egypt, the Algerian legislator did not provide a precise and specific definition of the term "administrative control" in its treatment of this matter. Instead, the legal texts that addressed this issue only outlined its objectives. This may be due to the very concept of public order, which is characterized by flexibility and relativity. It differs according to time and place; what is considered part of public order in one country may not be regarded as such in another. Furthermore, its concept may vary even within a single country. For example, what is considered public order in one region of the state may not be viewed the same way in another region, and what was considered part of public order in the recent past may no longer be seen as such after a certain period.

Article 114 of the State Law (Law No. 12-07, 2012) outlines the powers of the governor in the field of administrative control, considering him a representative of the state, without defining the term, stating: "The governor is responsible for maintaining public order, security, safety, and public tranquility." Similarly, Article 94 of the Municipal Law (Law No. 11-10, 2011) specifies the role of the head of the municipal council in the area of administrative control, listing his responsibilities in this field, without defining the concept of control, as follows: "In the framework of respecting the rights and freedoms of citizens, the head of the municipal council is specifically tasked with the following:"

- Ensuring the maintenance of public order and the safety of individuals and property.
- Ensuring the preservation of public order in all public places where people gather, and punishing any disturbance to public peace and any actions that may disrupt it... Article 95 states: "The president of the municipal council shall issue building, demolition, and subdivision permits according to the conditions and procedures specified in the applicable legislation and regulations..."

Additionally, Article 10 of Order 75/41, dated June 17, 1975, concerning the operation of beverage sales establishments (Ordinance No. 75-41, 1975), stipulates the authority of the governor, in the exercise of administrative control, to close establishments whose owners violate laws and regulations, or whose actions harm public order, health, or morals.

After reviewing the various juridical definitions of the term "administrative control" and what comparative legislations, in general, and the Algerian legislator, in particular, have adopted, it becomes clear that the concept of administrative control can be understood in two main senses: organic and objective. According to the organic or formal criterion, administrative control is defined as: "The totality of the bodies and agencies responsible for taking actions and measures aimed at preserving public order." This definition focuses on the various legally authorized bodies that carry out administrative control procedures, whether at the central or local level, without addressing the substance of the measures and legal actions taken in this regard.

From an objective perspective, administrative control is defined as: "The set of procedures, actions, and measures taken by public authorities to preserve public order, or the activity carried out by public authorities to maintain public order (Boudiaf, 2007, p. 368)." The objective or functional definition of administrative control focuses on the activity of the administrative bodies responsible for control, as well as the procedures and methods they adopt to preserve public order.

Thus, administrative control can be defined by combining both criteria as: "A set of procedures and rules imposed by the competent public authority on individuals to organize their activities, define their scope, and restrict their freedoms within the limits of the law, with the aim of protecting public order and safeguarding society from any threats to it (Badawi, 1974, p. 10)."

1.1.2 Distinguishing Administrative Control from Other Types of Control

Administrative control may resemble certain other forms of control, such as legislative and judicial control. Therefore, it is necessary to clarify the differences between these concepts. Additionally, we will explain the distinction between administrative control and public service, which is one of the most commonly used terms in administrative law.

A. Administrative Control and Legislative Control

Legislative control refers to the body of laws issued by the legislative authority to limit the scope of certain individual freedoms. In contrast, administrative control, as previously defined, refers to the set of measures and procedures implemented by the competent administrative authorities to maintain public order in all its aspects. Therefore, the overlap between the two is evident in that both address the issue of public rights and freedoms. Legal scholars believe that administrative control operates within the framework of legislative control by having administrative authorities apply the general principles and rules established by legislative control. However, this does not prevent the administration from adding new regulatory provisions that restrict public rights and freedoms.

Despite the similarities between the two terms, they differ in several aspects. From a substantive perspective, administrative control specifically refers to the measures and procedures taken by the competent administrative bodies to preserve public order and protect it from any disruption, which involves limiting the exercise of public rights and freedoms. The precise concept of legislative control, however, refers to the laws issued by the legislative body that define, regulate, and clarify how public rights and freedoms should be exercised. One could say that legislative control explains how freedoms should be exercised, while administrative control restricts their exercise, even though both aim to maintain public order (Tahari, 2012, p. 73).

The difference between the two terms is most apparent when considering the formal criterion. As mentioned, administrative control falls under the responsibility of the public administration (the executive body), whereas legislative control is the responsibility of the legislative body, which exercises it within the boundaries set by the constitution and relevant organic laws (Mohamed El-Saghir Baali, 2013, p. 293).

B. Administrative Control and Judicial Control

As previously mentioned, administrative control refers to the totality of measures and procedures taken by the

competent administrative bodies to limit public rights and freedoms with the aim of preserving public order. On the other hand, judicial control refers to the totality of procedures and actions carried out by the competent judicial authorities after a crime has occurred, to investigate its circumstances and details, and to attempt to identify the perpetrators, with the goal of presenting them to the relevant judicial authorities for legal prosecution.

From the definitions of the two terms, it is clear that they both share the objective of maintaining public order. Furthermore, administrative control measures may continue in some cases even after the threat has occurred, such as the continuation of administrative control until protesters are dispersed (Hamdi, 2008, p. 219). They may also overlap in that certain bodies combine both functions by law, as is the case with the mayor. His role as the head of the municipal council (an administrative role) allows him to take preventive measures and actions that affect public security, public health, or public tranquility within the municipality, such as banning trade in certain streets, closing roads, or prohibiting the movement of animals in urban areas. Additionally, by virtue of his judicial authority under the law, he is authorized to take all necessary legal actions during the commission of a crime. Similarly, although the primary duties of a police officer focus on regulating traffic for vehicles and pedestrians, they are also required to take the necessary legal actions in the case of a crime such as driving under the influence or carrying illegal items in vehicles (Boudiaf, 2007, p. 370).

Although the two terms may appear similar, there are fundamental differences between them that distinguish one from the other. These differences can be summarized as follows:

- In terms of legal nature: The preservation of public order can be achieved in two forms: preventive and deterrent. The former refers to the measures and actions taken before the threat or crime occurs, which is embodied in administrative control procedures. On the other hand, there are actions and procedures undertaken after criminal acts have taken place, aiming to investigate the circumstances of their commission and attempt to identify the perpetrators, leading to their presentation before the competent judiciary. This is known as judicial control (Chavrier, Delamarre, & Paris, 2010, p. 192).
- In terms of the legal system: The function of administrative control is carried out under the knowledge, supervision, and oversight of the administrative authority in the state. In contrast, the task of judicial control is carried out by qualified personnel responsible for investigating and detecting crimes, as specified in criminal procedure law, such as police officers and national gendarmerie personnel (Article 15 of Ordinance No. 66-155, 1966). Alternatively, such roles may be defined under special laws, such as commercial, forestry, and tax laws, under the supervision of the public prosecution, a body associated with the judiciary (Al-Dhanibat, 2011, p. 172).
- In terms of the state's responsibility for each: It is well established in various comparative legislations that the state is responsible for any harm caused to citizens, including actions and measures related to administrative control. On the other hand, judicial control actions, such as the investigation and inquiry into crimes by the Public Prosecution, are not actions for which the state is held accountable as a general principle (Hamdi, 2008, p. 221).

1.2 The Purposes of Administrative Control in the Prevention of Crime

The scope of administrative control measures revolves around preserving the supreme interest of society. Not every aspect of the public interest can be used to justify the restrictions that public authorities impose on rights and freedoms, even if that aspect is central to the public interest. The implication of this is that the goals and purposes of administrative control primarily concern the protection and preservation of public order, with the aim of ensuring security and stability within society. This, in turn, serves to prevent crime. Therefore, administrative control authorities, under no circumstances, may take any measures in this regard for objectives other than preserving public order, even if these objectives are linked to public interests, such as generating financial revenues for the public treasury, for example. Otherwise, their actions and the measures taken would be considered unlawful, and they would bear full legal responsibility (Hamdi, 2008, p. 224).

1.2.1 Public Order as the Primary Objective of Administrative Control and Crime Prevention

The term "public order" is flexible and relative, varying across different places and times, from one country to another, and even within regions of the same country, as it is linked to the political, social, and cultural changes that societies undergo. In countries that adopt a socialist economic model, public authority's intervention in social matters increases, which is accompanied by numerous measures and actions that restrict the exercise of rights and limit the enjoyment of freedoms, thereby broadening the concept of public order. In contrast, in countries that adopt a capitalist system, state intervention is much more limited, resulting in fewer restrictions on freedoms and, therefore, a narrower concept of public order.

Due to this characteristic of public order (flexibility and relativity), legal scholars have offered varying definitions of the term. For example, a French legal theory led by Haurio holds that the concept of public order is limited to its

material aspect, meaning it is embodied in real, tangible conditions. According to this view, the goal of administrative control is simply to prevent tangible disturbances that could threaten public security, public health, or public peace (Ali, 2009, p. 293).

On the other hand, another perspective sees the concept of public order as a legal and social phenomenon that reflects the spirit of the legal system of a given society. This view holds that public order is not confined to a specific area but extends to various aspects that constitute the framework of society, whether social, cultural, economic, or political. Thus, the preservation of public order is no longer limited to traditional objectives alone. The modern understanding of public order permits the administrative authorities to take whatever actions and measures they deem necessary to protect public morals and ethics, such as prohibiting content that undermines public decency, based on the prevailing traditions and values of the community. This could include actions like banning publications that depict crimes or restricting the screening of obscene films (Amar, 2016, p. 09).

Various legislations have aligned with the classical concept of administrative control by merely defining the components and elements of public order. The Algerian legislator has followed this approach by limiting the legal texts that define the powers of competent bodies in the field of administrative control to the three elements of public order. Article 114 of the Wilaya Law specifies the powers of the wali (governor) in the area of administrative control, stating: "The wali is responsible for maintaining public order, security, safety, and public tranquility (Law No. 12-07, 2012)." Similarly, the Municipal Law outlines the powers of the mayor in this regard, stating: "In the framework of respecting the rights and freedoms of citizens, the mayor is specifically tasked with the following:

- Ensuring the maintenance of public order and the security of persons and property.
- Ensuring the preservation of public order in all public places where gatherings of people occur, and punishing any violation of public tranquility or any actions that would disturb it... (Article 94 of Law No. 11-10, 2011)"

The Algerian legislator also addressed this in the law related to political parties, Law No. 12/04, where Article 64 states: "In cases of urgency and imminent disturbances to public order.... (Law No. 12-04, 2012)"

Thus, the process of defining the elements of public order is of great importance in protecting public freedoms, especially in exceptional circumstances where the scope of intervention by administrative control authorities expands. These authorities take the necessary measures to address disturbances in public order. The broader the scope and content of public order, the greater the restrictions on freedoms, thus violating the principle that freedom is the default, and restrictions are the exception (Maqdoud, 2017, p. 22).

2. Components of Public Order and Their Importance in Crime Prevention

We have shown that the traditional concept of public order is limited to maintaining public security, public health, and public tranquility. However, the modern perspective introduces new concepts of public order, such as public morals. By preserving these components, which we will address, we ensure stability and calm within society, thus preventing criminal acts that could affect it.

2.1 Public Security

Public security refers to an individual's sense of safety regarding themselves, their family, property, and honor from any potential danger. This includes threats from fellow citizens, such as criminal attacks, the violence of the mentally ill, violent protests, and traffic accidents, as well as risks from wild animals that cause disturbances and panic among individuals. It also encompasses the dangers posed by natural disasters like floods, earthquakes, fires, and building collapses. These circumstances place an obligation on the authorities responsible for administrative control to take preventive measures to avoid such risks that threaten the public security of individuals. This includes preventing crimes, banning disruptive protests, implementing necessary measures to organize traffic, removing obstacles from public streets and roads, and taking steps to protect society from natural disasters and general hazards, such as floods, torrents, and fires. Furthermore, it involves measures aimed at protecting individuals from the risk of collapsing buildings and those related to regulating the trades conducted on public roads (Ali, 2009, p. 296).

2.2 Public Health

Public health refers to the measures and preventive procedures taken by administrative authorities to protect citizens from various epidemics, diseases, and germs that threaten their health. This involves combating the various causes that contribute to the emergence and spread of such threats, such as maintaining the cleanliness and safety of drinking water sources, ensuring sanitary conditions for food intended for consumption, and addressing infectious diseases like tuberculosis and the plague. It also includes maintaining the cleanliness of public spaces,

such as parks, stadiums, and public squares. Environmental pollution is considered one of the most significant factors that harm citizens' health, which is why combating pollution is seen as an effective measure to protect public health (Al-Tahravi, p. 240).

The importance of preserving this goal (public health) has increased in recent times, especially with the rise in population density and the expansion of transportation and communication networks. This has significantly contributed to the exacerbation of epidemics, particularly infectious ones, and has been further facilitated by agricultural and industrial development. As a result, the concept of public health has broadened to include not only the health of individuals and public spaces but also the provision of sanitary conditions in commercial and industrial establishments (Kanaan, 2008, p. 282). Moreover, any assault on this element is considered an environmental crime punishable by law (Chapter Six of Law No. 03-10, 2003).

2.3 Public Morality

Defining ethics and public morality highlights the aspect of virtue and the set of positive behaviors that reflect humanity's shift from its animalistic nature to a human one. This is expressed through practices and actions that involve neither harming others nor violating the religious and social norms of the prevailing system in society. The moral and ethical aspect varies depending on the perspective of each society. What is permissible in one country may not be so in another. For example, same-sex marriage, which has emerged in many Western countries and been regulated by legal texts, is considered immoral and unethical in countries that adhere to Islam, as it contradicts the cultural knowledge of the society and undermines the foundations of family structure. Given the absence of specific texts that define what constitutes public morality or ethics, administrative courts play a decisive role in determining the general ethical and moral framework. This allows them to justify the legitimacy of administrative intervention through the authority of control. It can be said that ethics and public morality are closely tied to society, particularly in relation to public perception of certain issues, such as films that depict images of individuals in situations that provoke public sentiment or publications that may arouse youth, thus permitting the intervention of the authority of control. However, administrative courts face significant difficulty in determining the scope of public morality and ethics, likely due to the absolute separation between what is moral and private and what is legal and legitimate (Amar, 2016, p. 71).

It is worth noting that, for reasons related to public morals, the Algerian legislator criminalized certain behaviors and practices, such as actions that offend public decency. These are considered distinct crimes and are punishable under Section Six of Chapter Two of the Penal Code, under the title "Violation of Public Morals." The legislator made the right decision in this regard (Ordinance No. 66-156, 1966).

3. Types and Means of Administrative Control

Since the concept of administrative control refers to the set of measures taken by the competent authority to maintain public order within the state, which inherently involves restrictions on the rights and freedoms of individuals, these restrictions vary in terms of their scope. They may be general, encompassing all citizens and regions of the state without exception, or they may apply to a specific geographic area, a particular subject, or specific individuals, to name a few. Therefore, control measures are divided into general and specific categories. Additionally, for administrative bodies responsible for administrative control to carry out this sensitive and complex task, human, material, and legal resources must be available.

3.1 Types of Administrative Control

Legal scholars categorize administrative control procedures into general and special.

3.1.1 General Administrative Control

General administrative control refers to the overall legal framework for administrative control, through which the legally authorized bodies seek to protect public order in the state from any form of violation or prevent its escalation when it occurs. In its broad sense, administrative control encompasses elements of public order, which we previously discussed, including public security, public health, public tranquility, and public morals, all of which aim to combat or reduce crime in the state.

The procedures for general administrative control are carried out by the central competent authorities and apply at the national level. These procedures may also be carried out by local authorities, represented by the governor or the head of the municipal council, within the jurisdiction of the state or municipality in which they exercise their regional authority (Kanaan, 2008, p. 267).

3.1.2 Special Administrative Control

Special administrative control refers to the measures and procedures implemented by the competent authorities

aimed at restricting the activities and freedoms of individuals in a specific and defined area. Thus, it either pertains to a particular location or a specific activity. An example of the first type is the measures imposed by public authorities regarding the movement of people, such as requiring permits for movement in certain areas or prohibiting movement during specific hours, as announced, and other similar procedures (Boudiaf, 2007, p. 375).

An example of the second type is when specialized bodies, through specific laws, regulate the practice of certain activities, such as commercial activities, thereby granting these bodies greater authority than general administrative control (Abdullah, 2003, p. 392). Any violation of these measures and procedures is considered a crime punishable by law (Law No. 04-08, 2004).

The differences between the two types of control can be highlighted in the following aspects:

- In terms of the competent body for administrative control: The bodies responsible for specific administrative control procedures differ from those responsible for general administrative control, whether at the central or local level. Some even argue that the specialized control bodies are stronger within their domain than the general control bodies, although, in principle, the legislator grants general control authorities the powers of specific administrative control.
- In terms of the objective: While the goal of general administrative control procedures is to preserve the traditional elements of public order, such as security, public tranquility, and public health, the goal of specific administrative control is to achieve a different objective, which is classified as part of the modern elements of public order. This shift in perspective has led to the evolution of its concept, such as the protection of the environment, heritage, and culture.
- In terms of individuals: General administrative control applies to all members of society without exception, while specific administrative control concerns a particular group of individuals, such as traders, doctors, and foreigners, among others (Kherchi, 2016, p. 26).

3.2 Means of Administrative Control

Since administrative control is one of the most important administrative activities, it is essential as it aims, through the competent public authority, to preserve public order in all its components, which we have previously outlined, and to protect it from all possible forms of violation. To achieve this noble goal, those responsible for this activity must be equipped with human, material, and legal resources.

3.2.1 Human Resources

Human resources refer to the individuals legally qualified to carry out administrative control tasks. These individuals are made available to the relevant administrative authorities responsible for this activity, either at the central level or at the local level, such as the police, national gendarmerie, and military personnel in exceptional situations. Additionally, certain legally authorized employees are assigned this task under specific laws, such as environmental, tax, commerce, and health officers.

3.2.2 Material Resources

For the administrative bodies responsible for administrative control to implement the measures and procedures they adopt in practice to maintain public order, they must be provided with the necessary material resources and equipment. These resources include items such as signs, vehicles, offices, and even airplanes if required, as well as any material means that serve the intended purpose.

3.2.3 Legal Means

In order to prevent and reduce crime, the competent authorities responsible for administrative control, whether central or local, implement measures to maintain order in accordance with the powers granted to them by law. These measures are carried out according to the procedures outlined by law and the safeguards provided for the individuals subject to these actions, ensuring that authorities do not act arbitrarily. For instance, the President of the Republic implements control measures in accordance with the constitution, and the same applies to the Prime Minister. Meanwhile, ministers exercise this function based on regulatory provisions that allow them to take certain actions and decisions. The governor, on the other hand, adopts the necessary control measures based on the powers granted to them by the law governing the governorate. The same applies to the president of the municipal council, who implements control measures in accordance with the provisions and rules set forth in the municipal law (Boudiaf, 2007, p. 383).

In order to maintain and safeguard public order from any infringement, in any form, the law grants the administrative bodies responsible for this function the authority to make certain decisions and provides them with

the necessary means and methods. Accordingly, the legal means that can be used for administrative control can be summarized in administrative control regulations, also known as regulatory control decisions, individual control decisions or orders, direct compulsory enforcement, or the use of force. The advantage of these legal means is that they are preventive rather than punitive; they may also create a new legal status for the individuals affected by them, alter it, or revoke it (Kanaan, 2008, p. 291).

A. Administrative Control Regulations (Regulatory Control Decisions)

The purpose of the control regulations issued by central and local public authorities, which fall within the scope of their regulatory duties, is to maintain public order in all its traditional and modern components. These regulations are a primary responsibility of the executive authority. They represent one of the most prominent and important manifestations of administrative control power. These regulations are general, abstract rules that impose restrictions on public rights and freedoms, such as traffic regulations, market regulations, regulations for monitoring commercial establishments, and the conditions for displaying consumer goods (Amar, 2016, p. 247).

The Algerian Constitution of 2020 (Article 139 of the Constitution of the People's Democratic Republic of Algeria, 2020) stipulates that the legislative authority is responsible for regulating individuals' various daily activities and the rights and freedoms granted to them. It also establishes the guidelines to reconcile and balance the enjoyment of these rights with the preservation of public order from any disruption. The Constitution assigns the executive authority the responsibility of ensuring the proper implementation of the laws enacted by the legislative body. Since legal texts alone are insufficient to comprehensively and precisely regulate public freedoms, the legislator has granted the executive authority the task of organizing the exercise of individual activities. Thus, the executive has a significant role in this area due to its regulatory authority through administrative decisions that are flexible and adaptable to the changing needs of time and place.

Administrative control regulations are similar to ordinary legislation (law) in that they include general, abstract legal provisions that are binding on the individuals to whom they apply. However, they differ from legal texts in terms of their origin, as the latter are issued by the legislative authority, while administrative control regulations are issued by the executive authority (Said, 2017, p. 51).

Administrative jurisprudence and courts have established conditions that must be met for administrative control regulations to be considered a legal means of maintaining public order. Among these conditions is that they must not contradict an existing legal rule, both in form and substance, as they are subordinate to it in rank and are enacted to fill any gaps in the legislative text. Additionally, they must be general and abstract, not targeting a specific individual, and their application should ensure equality among those subject to them. It is also important to note that administrative control regulations vary depending on the obligations and restrictions they impose on rights and freedoms. These include regulations that involve prohibition or restriction, those that grant permission or authorization, notification regulations, and regulations that organize activities (Kherchi, 2016, p. 68).

a. Prohibition or Ban

Regulatory regulations may include a prohibition on individuals subject to them from taking certain actions or engaging in specific activities as a preventive measure to avoid disrupting public order in society. However, if this prohibition pertains to an activity that is originally legally permissible without any restrictions, it is considered unlawful because it constitutes a total confiscation of a public right, which contradicts the provisions of the constitution. There is no such thing as an absolute ban, whether explicitly stated or even implied, as it would be invalid in both cases. One condition for a prohibition is that it must be partial, limited to specific places or areas, and enforced at specific times. Examples of this include implementing one-way traffic systems on certain roads, prohibiting parking in specific places at certain times, and banning the trade of certain products such as fireworks, weapons, and others (Hamdi, 2008, p. 244).

b. Authorization or License

Administrative control regulations may require individuals to obtain prior authorization from the competent administration to carry out a particular activity. These regulatory provisions define the conditions for engaging in certain activities, both in terms of subject matter and personal qualifications. The authorization may apply to activities that are not inherently prohibited but, due to the necessity of maintaining public order, require an individual to obtain a license from the relevant administrative bodies, such as permits for constructing or demolishing buildings or engaging in certain noisy or hazardous professions. The authorization may also apply to activities that are inherently prohibited, such as permits for carrying firearms or selling fireworks.

The distinction between the two types of authorization mentioned above is crucial, particularly regarding the extent of the administrative authority's discretion in granting such licenses. It is well-established in legal doctrine and

nearly settled in jurisprudence that the administration's authority to grant licenses for activities that are not inherently prohibited is restrictive, while it is not so with regard to granting licenses for inherently prohibited activities. It is also important to note that licenses do not apply to fundamental freedoms and rights guaranteed by the constitution (Al-Tahrawi, p. 244).

c. Notification

To exercise certain rights and freedoms, the public administration responsible for administrative control may require individuals to notify them of their intention to engage in a specific activity. This allows the administration to monitor the activity and take necessary measures to maintain public order, such as notification of organizing a strike, sporting events, intellectual seminars, etc.

The activities that require notification to the relevant authorities are not prohibited per se; rather, they are subject to maintaining the requirements of public order. Therefore, the individual concerned must inform the administration of their intention to undertake such activities. The relevant administrative body then takes the necessary steps to prevent any disturbances during the exercise of these activities, and it may object if it deems the activity harmful to public order. Unlike the licensing system, notification is a less restrictive form of administrative control, with minimal impact on public rights and freedoms. In licensing, the administration must take an active role, either by approving or denying the request, whereas in notification, the administration simply remains passive and does not object to the activity (Ali, 2009, p. 305).

d. Organizing Activity

Organizing individuals' activities refers to establishing a system that allows for the exercise of such activities. This form of administrative control is one of the least intrusive on public rights and freedoms, such as the rules governing public markets, measures regulating traffic flow like speed limits and traffic lights, and the regulation of tourism activities at beaches (Articles 19, 22, and 24 of Law No. 03-02, 2003) (Amar, 2016, p. 259).

B. Use of Force (Compulsory Execution)

Also known as direct enforcement, this is one of the most severe methods of administrative control that impacts public rights and freedoms. Administrative authorities, in their legal actions in general, and those related to control procedures specifically, have the right to directly enforce their decisions when individuals subject to these measures fail to comply. This can be done without resorting to the judiciary. However, when the administration resorts to such a serious action, it remains responsible for any violation of rights or abuse of power, whether by being compelled to halt direct enforcement actions immediately or by compensating those harmed by the actions. Therefore, the administration must exercise caution and prudence in such circumstances (Al-Tahrawi, p. 247).

The prevailing opinion in legal doctrine and administrative jurisprudence restricts the dangerous act of compulsory enforcement of an administrative control measure to two cases: the first is the existence of a legal text that permits the administrative control authority to resort to compulsory enforcement, such as urban planning laws granting the administrative body responsible for regulation the authority to remove any dilapidated structures that pose a risk, even if they were legally constructed. The second case in which administrative bodies responsible for control are authorized to use compulsory enforcement is in situations of urgent necessity, where they face an imminent or actual serious threat that endangers public order. In such cases, they cannot address the threat using ordinary legal methods, thus permitting them to take any action they deem appropriate to mitigate the danger (Kanaan, 2008, p. 298).

C. Individual Administrative Control Decisions

The authorities responsible for administrative control may resort to issuing administrative control decisions concerning an individual or specific persons, ordering certain actions to be carried out or prohibiting other actions. Examples include an order to close a commercial establishment owned by an individual for violating consumer protection laws and anti-fraud provisions, or an administrative decision requiring a person to carry out necessary repairs to their home, or even a decision to demolish a house that is at risk of collapse. These individual decisions may also involve authorizations or licenses, such as allowing a citizen to engage in a business that requires a license, like operating a mineral bath.

Typically, individual administrative control decisions are merely the application of an organizational regulatory rule, in cases where the conditions of the regulatory rule apply. Regarding the necessity for individual decisions to be based on a legal text or regulatory rule, there is indeed some debate among scholars and legal experts. A large group of scholars believes that the administration cannot rely on what are called individual decisions unless there is a legal text that permits it or a regulation that ensures the legality of administrative actions. On the other hand, another legal perspective argues that although the principle is for the administration to base its individual decisions

on a legal text or regulatory decision, public interest requirements and the potential for special cases that do not fall under the provisions of the regulation make reliance on individual decisions both necessary and acceptable (Abdullah, 2003, p. 398).

Conclusion

In this study, we addressed the negative aspect of administrative activity, or what is known as administrative control, as a legal mechanism for preventing and deterring crime. The primary goal of administrative measures and actions, which restrict public rights and freedoms, is to maintain public order in all its traditional and modern components, including public security, public health, and public morals. These efforts aim to preserve the safety and stability of society. To achieve this objective, the legislator has provided the competent authorities, as defined by law, with the necessary material, human, and legal resources. Furthermore, the legislator has set clear boundaries for these authorities, both in normal and exceptional circumstances, as a safeguard against potential abuse and violations of public rights and freedoms.

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