

License to Transport Hazardous Special Wastes in Accordance with the Provisions of Executive Decree No. 04-409

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Abstract

The issue of waste proliferation—in all its varieties and across different areas—is regarded as one of the most severe and critical environmental challenges confronting Algeria, with direct consequences for humans, animals, and plants. Which is continually rising for numerous reasons, including urban development, rapid population growth, and the disorganised proliferation of waste from different sources due to lack of public awareness about the risks of waste and its effects on health and the environment, whether resulting from household waste or from industrial, agricultural, medical, and service activities. Waste that can affect the environment and public health through its components, along with waste generated from mining, construction, and renovation works.

The increase of this phenomenon resulted in the involvement of the Algerian legislature through the enactment of Law No. 01-19 regarding waste management, monitoring, and disposal, as amended and supplemented by Law No. 25-02, with the aim to define and regulate the methods of its management, monitoring, and treatment. Considering that hazardous special waste is among the most dangerous waste types, the legislator has imposed a series of conditions and procedures for its management and transport as regulated by Executive Decree No. 04-409, which this research paper examines.

Keywords: Hazardous Special Waste, Hazardous Special Waste Transport License, Hazardous Special Waste Carrier, Minister of Environment.

Introduction

Waste poses a significant danger to the Environment, originating from many sources and taking various forms, whether liquid, solid, or gaseous. The accumulation of residues and waste piles resulting from various production, transformation, or use processes encourages the proliferation and spread of bacteria, viruses, and fungi, as well as rodents and mosquitoes, leading to outbreaks of disease and epidemics among the community.

To protect the Environment and public health from the dangers posed by waste of all kinds, and to regulate its management, the Algerian legislator enacted Law No. 01-19 on waste management, control, and removal. This was further amended in 2025 by Law No. 25-02.

Given the danger posed by hazardous special waste, the legislator has singled it out with regulations and provisions governing its management and transport, as specified in Executive Decree No. 04-409 and the ministerial decisions implementing it.

Since the subject of this study concerns the license to transport hazardous special waste in accordance with the provisions of Executive Decree No. 04-409, we can pose the following question: What conditions and procedures has the legislator established to control the transport of hazardous special waste?

To address this problem and cover all aspects of the study, the study has been divided into two main axes: the first addresses the concept of hazardous special waste, and the second addresses the procedures and methods for issuing a license to transport it.

Section One : The Concept of Hazardous Special Waste

Hazardous special wastes, regardless of their sources, are considered among the most dangerous types of waste due to their impact on the Environment as a whole. From this perspective, we will provide the legislative definition of hazardous special wastes (First), then address the sources of hazardous special wastes (Second), and finally, the characteristics of hazardous special wastes (Third).

First: Legislative Definition of Hazardous Special Waste

Referring to the legal texts regulating waste in Algeria, we find that the legislator defined hazardous special waste under Article 3 of Law No. 01-19 concerning waste management, control, and removal, as: "All special waste which, by virtue of its components and the nature of the toxic substances it contains, is likely to harm public health and/or the environment."

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It is clear from the text of the above article that the legislator, when defining hazardous special waste, used the phrase: "All special waste." Therefore, it is appropriate to address the legislator's definition of special waste, and then its definition of waste in general.

The legislator defined special waste under the same Article 3 mentioned above as: "All waste resulting from industrial, agricultural, therapeutic activities, services, and all other activities which, by virtue of their nature and the components of the substances they contain, cannot be collected, transported, and treated under the same conditions as household waste and similar waste, and inert waste."

It also addressed the definition of waste under the same article as: "All residues resulting from production, transformation, or use processes, and more generally, every substance or product and every movable property that the owner or holder disposes of, intends to dispose of, or is obliged to dispose of or remove."

By examining these definitions, we find that hazardous special waste includes all types of waste, regardless of source, except household waste and similar waste, and inert waste. This is because hazardous special waste contains toxic components and substances that directly or indirectly affect human health, in particular, and the Environment in general.

The legislator classified waste under Article 5 of Law No. 01-19 concerning waste management, control, and disposal as follows:

- Special waste, including hazardous special waste.
- Household waste and similar waste.
- Inert waste.

In implementation of the text of Article 5 mentioned above, Executive Decree No. 06-104 was issued specifying the list of wastes, including hazardous special wastes, whereby wastes, including hazardous special wastes, are classified consistently (Article 2 of Executive Decree No. 06-104) by assigning a number specifying the waste symbol, then stating the definition of the type of waste. If it is household, it is symbolized by: (H.H), if it is special, it is symbolized by: (S), but if it is hazardous, it is symbolized by: (H)

Executive Decree No. 06-104, dated February 28, 2006, mentioned above, also specified the wastes in its Third Annex. It defined them as follows:

Waste resulting from the exploration and exploitation of mines and quarries, and from the physical and chemical treatment of minerals.

Waste resulting from agriculture, horticulture, aquaculture, surgery, hunting, sea fishing, and from food preparation and processing.

Waste resulting from wood processing, the production of panels and furniture, paper pulp, paper, and cardboard.

International and Comparative Corporate Law Journal

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Waste resulting from the leather, fur, and textile industries.

Waste resulting from petroleum refining, natural gas purification, and thermal treatment of coal.

Waste resulting from chemical metal treatment processes.

Waste resulting from the manufacture, formulation, distribution, and use of coating materials - paint, varnish, ceramic, dye, printing ink.

Waste resulting from the photographic industry.

Waste resulting from surgical operations.

Waste resulting from surface chemical treatment, metal plating, other metals, aqueous metals, and ferrous metals.

Waste resulting from the shaping and physical and mechanical treatment of the surfaces of metals and plastics.

Waste from organic solvents, refrigerants, and propellants - excluding categories 7 and 8.

Packaging materials, waste, pipettes, wiping rags, filtering materials, protective clothing, and not specified elsewhere.

Wastes not included elsewhere in the list.

Construction and demolition waste, including rubble from contaminated sites.

Waste resulting from medical or veterinary treatment or from joint research - except for kitchen and restaurant waste that is not directly resulting from medical treatment.

Waste resulting from waste management facilities, off-site wastewater treatment plants, and from the preparation of water intended for human consumption and water used in industry.

Second: Sources of Hazardous Special Waste

The legislator did not explicitly state the sources of hazardous special waste under Law No. 01-19 mentioned above; however,

It defined special waste by mentioning the source causing its occurrence, stating:

"All waste resulting from industrial, agricultural, therapeutic activities, services, and all other activities..." which implies that the source of hazardous special waste is all residues resulting from industrial, agricultural, therapeutic activities, services, and all other activities.

It is worth noting that the legislator did not define industrial or agricultural waste, either in the Waste Law or in the decrees and decisions issued to implement it. However, Article 3 of the Waste Law defines therapeutic activities as: "All that results from examination, monitoring, preventive or therapeutic treatment activities in the field of human and veterinary medicine is considered therapeutic waste."

Third: Characteristics of Hazardous Special Waste.

We can deduce the characteristics of hazardous special waste by referring to Executive Decree No. 06-104, previously mentioned, which, under Annex I, specifies the criteria for hazardousness. This involves assessing the hazardousness of the waste concerned according to specifications and criteria that distinguish it from other wastes, as determined by the legislator as follows:

Explosivity: Any substance or waste, solid, liquid, pasty, or gelatinous, that can, even in the absence of atmospheric oxygen, cause an exothermic reaction with the rapid formation of gas that explodes or detonates rapidly under specific experimental conditions, or explodes under the effect of heat in partial confinement.

Flammability: Any waste with a very low flash point, or a gaseous preparation that is flammable in air under ambient temperature and pressure.

Highly Flammable and Ignitable: Those whose temperature rises to the point of ignition in air under ambient temperature without the addition of energy, or in their solid state, can easily ignite through a brief action of an ignition source and continue to burn and deplete even after the removal of this source. Alternatively, contact with other materials, especially flammable materials, can cause a highly exothermic reaction.

Harmful, Toxic, or Carcinogenic: Those that are harmful, toxic, or carcinogenic by inhalation, ingestion, or skin penetration, leading to death, acute or chronic risks, or causing cancer.

Irritant or Corrosive: Irritants are those that can cause an inflammatory reaction due to direct, continuous, or repeated contact with the skin and mucous membranes.

Infectious: Those containing microorganisms capable of life and that can cause disease in humans or other living organisms.

Toxic for Reproduction and Mutagenic: Those that, by inhalation, ingestion, or skin penetration, can cause or increase the rate of undesirable non-hereditary effects in offspring, or may cause damage to reproductive functions and capabilities, and may also cause hereditary congenital malformations.

Hazardous to the Environment: Those that cause direct or delayed risks to one or more components of the Environment, capable of changing the composition of nature, water, soil, air, climate, flora, fauna, or microorganisms.

The legislator did well by specifying the criteria for the hazardousness of special hazardous waste under Annex I of Executive Decree No. 06-104, as well as classifying them according to their hazardousness within Annex III of the same decree.

Section Two: Procedures and Methods for Issuing the License to Transport Hazardous Special Waste

Waste transport is considered an important stage after the collection process, as it is prohibited to mix hazardous special waste with other waste due to its nature and the toxic substances it contains. Rather, it must be collected using scientific methods. For this purpose, the collection process has been organized by obliging anyone wishing to engage in this activity, whether a natural or legal person, to obtain official accreditation, after submitting the accreditation request to the Minister in charge of the Environment, in accordance with Articles 03 and 04 of Executive Decree 09-19, which regulates the activity of collecting special waste.

The transfer of hazardous waste refers to the total operations of loading, unloading, and transporting hazardous waste (Article 2 of Executive Decree No. 04-409).

The legislator has made it mandatory to obtain a prior license to carry out the transportation of this type of waste. This is done by following certain procedures, where the person concerned must submit a request to the competent authority, which examines the request and conducts an investigation, after which it issues a decision regarding the request.

First: Legal Status of the License Applicant

Referring to Executive Decree No. 04-409, which specifies the modalities for transporting hazardous special waste, we find that the legislator obliged every carrier of hazardous special waste to possess a valid transport license, which must be presented, when necessary, to the relevant control authorities during waste transport.

A waste carrier, in the sense of this Executive Decree, is considered any natural or legal person responsible for transporting hazardous special waste. This implies that the persons legally authorized to submit an application for a hazardous special waste transport license are:

Any natural person.

Public legal persons: These are persons subject to public law in their dealings, primarily represented by the state, wilaya (province), municipality, and administrative institutions.

Private legal persons: These are persons subject to private law in their dealings, primarily represented by civil and commercial companies, institutions, associations, and endowments.

It can be noted that the legislator distinguished between the carrier of hazardous special waste, the sender of hazardous special waste, and the recipient of hazardous special

International and Comparative Corporate Law Journal

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waste, according to the nature of the tasks they perform. The first is responsible for transporting it; the second is responsible for transporting and delivering the waste to others for transport; and the third is responsible for valuing and removing the waste after it has been transported to them.

Second: License Application File

In accordance with the provisions of Article 2 of the Joint Ministerial Decision specifying the contents of the application dossier for a licence to transport hazardous waste, the procedures for granting the licence, and its technical specifications, the dossier shall include the following documents:

- An application stating the applicant's name or company name and address.
- The nature, designation, and code of the transported waste, in accordance with the provisions of Executive Decree No. 06-104, mentioned above, and the list of the driving crew. Designation of loading and unloading points, as well as the main transit points (route).
- Certified valid copies of the following documents:
- Driving licenses and professional certificates, transport insurance contracts for drivers, registration cards, technical control and conformity reports for cars and trains, and car transit permits.
- A copy of the commercial register for the company applying for the transport license and/or the public goods carrier.
- The expected duration for the concerned waste.

Third: Study and Decision on the Application File

After depositing the license application file with the Ministry in charge of the Environment, the Minister of Transport is consulted, who must give his opinion within thirty (30) days from the date of sending the consultation request. The application file is studied after verifying compliance with the conditions stipulated in Articles 7, 8, and 9 of Executive Decree No. 04-409 mentioned above, regarding hazardous waste transport means.

The legislator mandated that transport means must be adapted and prepared in accordance with the nature, characteristics, and hazards of the transported waste, and that hazardous special waste transport means must be subject to conformity control and periodic technical inspections. They must also include a clear external sign specific to the type of waste being transported to identify its nature and potential dangers.

International and Comparative Corporate Law Journal

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The Minister in charge of the Environment issues the decision granting the hazardous special waste transport license within a period not exceeding two (2) months from the date of depositing the file. The duration of waste transport under the hazardous special waste transport license must be specified.

The transport license for this type of special waste also includes technical characteristics, specified by the Joint Ministerial Decision defining the content of the hazardous special waste transport license application file, the methods of granting the license, and its technical characteristics, mentioned above, which are as follows:

- Applicant's name or company name, applicant's address, designation, and code of hazardous special waste.
- Transport vehicle information, including: type and brand of vehicles, their number, and the validity period of their technical control reports, the number and validity period of conformity control reports for vehicles, as well as the number and validity period of their transit permits.
- Loading and unloading points, as well as main transit points.
- Driving crew authorized to perform transport.
- Driving licenses
- Professional certificate numbers.
- Number and validity period of insurance contracts.
- A copy of the commercial register for the company applying for the transport license and/or the public carrier of goods.
- License validity period.

A decision may be issued by the Minister in charge of the Environment, including the refusal to grant a hazardous special waste transport license, provided that it is justified, and the applicant is notified within a period not exceeding two (2) months from the date of depositing the file by the administration in charge of the Environment.

It is noted that the legislator did not specify the circumstances in which a hazardous special waste transport license may be refused, nor did it grant the license holder the right to appeal, whether administratively or judicially.

Fourth: Effects of Granting the License.

The legislator considered the granting of the license as a qualification for the carrier to transport this type of waste. The hazardous special waste carrier must also hold a professional certificate proving their training in this field. A set of obligations falls on the

waste carrier, and failure to comply with the regulatory provisions governing hazardous special waste transport results in the withdrawal of the license.

1- Conditions related to the packaging of hazardous special waste: The legislator mandated the necessity of placing transported hazardous special waste in packages, taking into account their nature, state, and hazardousness. Hazardous special waste packages must also include clear, indelible labels identifying the hazardous special waste they contain. In application of the provisions of Article 6 of Executive Decree No. 04-409, previously mentioned, the Joint Ministerial Decision specifying the technical characteristics of the hazardous special waste label was issued.

The technical characteristics of the hazardous special waste label refer to the total information placed on the hazardous special waste package during its transport, in accordance with the provisions of Executive Decree No. 06-104 mentioned above.

The legislator, under Article 3 of the Joint Ministerial Decision specifying the technical characteristics of the hazardous special waste label mentioned above, determined the information that the label must contain, which includes:

- The indication "Hazardous Special Waste" - The name of the hazardous special waste. - The waste code according to the waste list.
- Indicator of hazardous special waste danger criteria specified in the provisions of Executive Decree No. 06-104 mentioned above. - Hazard indicator and warning instructions.
- Quantity of hazardous special waste and its source (name and address of the producer and/or holder and recipient, and place of arrival).
- The size of the label must conform to the model shown in the annex of this decision, and the label must occupy 1/10 of the package surface.

2- Conditions related to safety instructions in the field of hazardous special waste transport:

- In the event of an accident during the transport process that may lead to the leakage of hazardous special waste, the carrier must immediately inform the police or national gendarmerie services, civil protection, and the competent regional authorities to stop the leakage and recover the hazardous special waste and all contaminated materials. The safety rules, measures, and/or protocols in the event of an accident or leakage must be determined, according to the nature of the transported hazardous special waste and its packaging, by a joint decision of the Ministers in charge of National Defense, Interior, Environment, and Transport.

3- A hazardous special waste movement document must accompany the waste transport operation:

In accordance with the provisions of Article 17 of Executive Decree No. 04-409 mentioned above, every transport of hazardous special waste must be accompanied by a document called the "movement document," through which the legally authorized authorities can verify the transport's compliance with the applicable regulations and legislation. It also allows controlling each operator's interventions and ensuring compliance with the general conditions for the progress of the transport, especially those related to the route and deadlines.

The legislator obliged the hazardous special waste carrier to clean and decontaminate the container or compartment used for transport after unloading the hazardous special waste it contained at the treatment facility. The burden of paying decontamination costs falls on the holder of the hazardous special waste.

The movement document is considered a joint document between the sender of the hazardous special waste, its carrier, and the recipient, who must sign it upon completion of their assigned tasks.

It is noteworthy that by examining the texts governing waste management, we observe that the legislator did not mention the penalties specified for violations, for instance the transportation of waste without a license,.

Conclusion

The study we conducted resulted in a set of findings followed by a set of recommendations as follows:

Findings:

- The Waste Law and the regulatory texts adopted for its implementation imposed the necessity of obtaining a prior license for the transport of hazardous special waste, as it was specifically subjected to defined procedures and conditions that must be followed and cannot be overlooked in terms of:
- The legal status of persons legally authorized to apply for a hazardous special waste transport license, and the files and documents accompanying the application.
- The competent administrative authority for granting it, as the legislator considered the Minister in charge of the Environment to have exclusive jurisdiction in issuing the hazardous special waste transport license after consulting the Minister of Transport.
- The conditions to which the transport of this type of waste is subject (general conditions in the field of packaging, transport means, and safety instructions; special

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conditions in the field of hazardous special waste transport license and the movement document for this type of waste).

- Hazardous special waste danger criteria, technical characteristics of the license, and technical characteristics of the hazardous special waste transport license label.
- The legislator affirmed the obligation to notify the applicant of the decision containing the justified refusal, but did not explicitly specify the cases of refusal, nor did it refer to the right of the aggrieved party from the refusal decision to appeal, whether administratively or judicially.
- The Ministerial Decision of 2013 addressed the withdrawal of the license in case of violation of regulatory provisions without delving into the procedures and modalities of its withdrawal.

Recommendations:

- It would be desirable for the concerned ministers, each within their respective domains of authority, to intervene by issuing joint ministerial decisions in application of Articles 12, 18, and 22 of Executive Decree No. 04-409 regarding the modalities for granting hazardous special waste transport licenses.
- The cases for refusing to grant a license for this category of waste should be explicitly specified by the legislator. The matter also requires explicitly stating the possibility of challenging the refusal decision by filing a grievance or a judicial appeal.
- It is advisable to create teams of qualified agents to investigate and inspect violations involving this type of waste.
- Upon visiting the official site of the Ministry of Environment and Renewable Energies, we observed an electronic services portal that enables users to request the issuance of a licence for transporting special and hazardous waste online. There is additionally a nominal registry that includes details about all transporters of this type of waste at the national level. This enhances the role of electronic governance in connecting the citizen to the administration. It is thus advised that the minister of environment and renewable energy, along with the minister of transport, take action to issue a joint ministerial decision repealing the joint ministerial decision dated 09/2/2013, which details the contents of the licence application file and outlines the updated procedures for requesting the licence issuance online through the services portal of the ministry of Environment and Renewable Energy.

International and Comparative Corporate Law Journal

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