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Criminal Law: Protection of Beaches under Algerian Legislation

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Abstract:
Algeria is seeking to enhance the use of its natural public assets, including beaches, to stimulate comprehensive development and establish them as a key pillar of the national economy. Tourism development necessarily requires attention to be paid to beaches, which are one of Algeria's most significant natural resources and extend along 1,622 km of coastline. In light of the need to redirect the use of the state's public property — particularly its natural assets — in an appropriate manner, measures must be taken to ensure their proper use, exploitation and protection, thereby supporting economic development in the field of coastal tourism. Accordingly, the Algerian legislature has enacted several legal instruments, some of whose provisions establish criminal-law protection for beaches, with the aim of preventing and curbing all forms of encroachment upon, and damage to, their natural condition.

Keywords: Beaches; Natural Public Property; Pollution Offences; Tourist Exploitation Offences; Algerian Legislation.

Introduction

A State's economic development is closely linked to the extent to which its public property, whether natural or artificial, is afforded legal protection. Given that beaches are among Algeria's most significant natural resources, stretching along 1,622 km of coastline[1], the Algerian legislature has enacted several legal instruments, some of which provide legal protection for beaches.

[1]- Law No. 10-02 of 29 June 2010 approving the National Spatial Planning Scheme, Official Gazette No. 61, published on 21 October 2010.

To ensure appropriate protection, numerous administrative bodies have been established at central and local levels. These bodies are entrusted with a wide range of responsibilities and employ various preventive and deterrent measures. The legislature has also criminalised various forms of encroachment upon beaches due to the serious effects this has on the coastal environment, of which beaches are an integral part.

Offences affecting beaches are distinctive in nature compared with other offences. They constitute an encroachment upon the state's natural public domain, and are also a form of environmental crime. This is an issue that has long attracted attention and been debated at a national level. Failing to consider the environmental impact when developing tourism projects in coastal areas inevitably disrupts their ecological balance. This necessitates combatting such offences through appropriate means and procedures. The Algerian legislature has addressed this issue by introducing legal instruments that criminalise harmful beach-related activities and establish the authority to investigate and prosecute such offences in accordance with specific methods and procedures.

This study is significant because it examines the mechanisms for the criminal-law protection of beaches under Algerian legislation. Such protection is a cornerstone of efforts to enhance the use and tourism-related development of beaches.

The study also aims to provide an understanding of the legal framework governing this protection. Accordingly, the following research question is addressed:

To what extent has the Algerian legislature succeeded in establishing criminal law protection for beaches?

To examine issues relevant to this subject, the study employs descriptive and analytical approaches as appropriate, defining key concepts and analysing relevant legal provisions.

For the purpose of examining and analysing the research question, the study is divided into two sections. The first section, entitled 'Criminalisation of Acts Affecting Beaches', examines the offences themselves, while the second section, entitled 'Establishing Offences Affecting Beaches', addresses their investigation and verification.

Section One: Criminalisation of Acts Affecting Beaches

As part of efforts to protect and enhance the coastline, the Algerian legislature has given due consideration to the environmental dimension by criminalising different forms of encroachment upon beaches through various legal instruments. Such acts and practices have serious consequences for the ecological balance of the coastal environment, particularly beach pollution, which is one of the most widespread offences against the environment (Subsection One). The legislature has also criminalised breaches of the rules governing the use of beaches for tourism (Subsection Two).

Subsection One: The Offence of Beach Pollution

Beach pollution accounts for the largest proportion of encroachment on the coastal environment, making its criminalisation necessary to protect and enhance the coastline. The following discussion therefore addresses the definition of the offence of beach pollution (Paragraph One) and its constituent elements (Paragraph Two).

Paragraph One: Definition of Beach Pollution Offences

The expansion of human activity along the coast, driven by the pursuit of economic development and the desire to keep pace with more developed countries, has contributed to, and continues to contribute to, the degradation of the coastal environment and the disruption of its ecological balance. Beach pollution involves the introduction of harmful and hazardous substances and materials onto beaches, thereby altering and/or degrading the properties of the coastal environment created by God Almighty for humankind. These substances affect human health and living organisms, thereby preventing beaches from being used for their intended purposes.

In this regard, the 1982 United Nations Convention on the Law of the Sea defines pollution of the marine environment as follows:

'the introduction by humans, directly or indirectly, of substances or energy into the marine environment, including estuaries, which results or is likely to result in such harmful effects as damage to living resources and marine life, hazards to human health, hindrance to marine activities (including fishing and other legitimate uses of the sea) and impairment of seawater quality[2].'

The term 'environmental crime' is often used to refer to human activities that are prohibited by environmental laws and regulations[3]. It has been defined as 'any positive or negative conduct, whether intentional or not, committed by a natural or legal person, that harms or attempts to harm any component of the environment, directly or indirectly'[4]. Another definition is "conduct that breaches a duty imposed and protected by law through a criminal sanction, and that causes a change in the properties of the environment, whether intentionally or unintentionally, directly or indirectly, where such a change harms

[2]- This is an international convention announced following the Third United Nations Conference on the Law of the Sea. It entered into force on 16 November 1994. This international convention provides a comprehensive legal framework for the mechanism governing the use of the waters of the world's seas and oceans. It ensures the preservation of environmental and marine resources, as well as the equitable use of these resources. The treaty also addresses issues relating to States' sovereignty over seas and oceans, the right to use maritime areas, and navigation rights. On 10 January 2014, the number of States that had ratified or acceded to the treaty reached 166. Algeria is one of the States that ratified and acceded to the Convention pursuant to Presidential Decree No. 96-53 of 22 January 1996, approving the United Nations Convention on the Law of the Sea, Official Gazette No. 06, published on 24 January 1996, p. 13.

[3]- Dong Yu LING, Environmental Crime: Definition and Compensation for Victims, thesis submitted to the Faculty of Graduate and Postdoctoral Studies in partial fulfilment of the requirements for the degree of Master of Laws, Faculty of Law, University of Montreal, April 2022, p. 08.

[4]- Charifa Charifa Tekouk, "Environmental Pollution Crimes," Journal of International Law and Development, Vol. 01, No. 01, June 2013, pp. 285–305.

living organisms and biotic or abiotic resources, thereby affecting the ability of human beings to live their lives as normal"[5].

In Law No. 03-10 of 19 July 2003 on the Protection of the Environment within the Framework of Sustainable Development, the Algerian legislature defined pollution as 'any direct or indirect alteration of the environment resulting from any act that causes, or may cause, a situation harmful to human health and safety, plants, animals, air, the atmosphere, water, land, and public or private property'[6].

Environmental legislation in various jurisdictions has also provided statutory definitions of environmental pollution. For example, under Article 1 of Law No. 9 of 2009, dated 25 February 2009 and amending Law No. 4 of 1994 on the Environment, the Egyptian legislature defines 'environmental pollution' as follows:

'Any change in the properties of the environment that directly or indirectly harms human health, affects people's ability to lead normal lives or damages natural habitats, living organisms or biological diversity[7].'

Beach pollution may be defined as the presence of one or more foreign substances or agents in varying quantities and chemical compositions that disrupt the ecological balance of the coastal and beach environment in the short, medium or long term, damaging biotic and abiotic resources and adversely affecting quality of life and human well-being.

Sources of beach pollution may be either natural or anthropogenic. The latter are among the most significant sources, as they cl[8]early reflect human encroachment upon the coastal and marine environment.

The discharge, leakage or dumping of pollutants into seawater is one of the main causes of beach pollution. In particular, the disposal of industrial waste at sea by factories — that is, waste generated by coastal industrial facilities — contributes significantly to marine pollution. This waste may contain toxic substances such as mercury and lead, as well as chemicals, oils, and residues of chemical raw materials and liquids, including acids. The toxic and hazardous nature of this waste, which may include harmful bacteria, microbes, and toxic metals, disrupts the ecological balance of the coastal environment. Contact with

[5]- Mohamed Mahmoud Al-Sharkasi, "Criminal Protection of the Environment under Libyan Legislation," Wadi Al-Nil Journal for Human, Social and Educational Studies and Research, 2017, pp. 341–370.

[6]- Paragraph 8 of Article 04 of Law No. 03-10 of 19 July 2003 on the Protection of the Environment within the Framework of Sustainable Development, Official Gazette No. 43, published on 20 July 2003.

[7]- Item 7 of Article 01 of Law No. 9 of 2009 amending the provisions of Law No. 4 of 1994 concerning the Egyptian Environmental Law, dated 25 February 2009, Official Gazette of the Arab Republic of Egypt, No. 09 (bis), published on 1 March 2009, p. 02.

[8]- Volcanoes and acid rain are among the most prominent natural sources of beach pollution. For example, volcanic fumes and molten materials emitted by volcanoes release toxic substances that pollute beaches. These are natural sources that do not involve human intervention. They are not the subject of this study. See: Qasim bin Musaid bin Qasim Al-Faleh, "Legal Protection of Beaches in the Kingdom of Saudi Arabia against Pollution (A Comparative Study with Islamic Jurisprudence)," Taibah University Journal of Arts and Humanities, Ninth Year, No. 25, 1443 AH, p. 471.

polluted beach water, whether through swimming or consuming fish caught off these beaches, can cause serious harm to public health[9].

Furthermore, wastewater from residential properties, commercial buildings, institutions and factories is contaminated and carries sewage and other waste. This also contributes to the deterioration of seawater quality and diminishes its utility.

For the purposes of Law No. 03-10 of 19 July 2003 on the Protection of the Environment within the Framework of Sustainable Development, water pollution is defined as 'the introduction of any substance into the aquatic environment that may alter the physical, chemical and/or biological properties of water; pose a risk to human health; harm terrestrial and aquatic animals and plants; impair the beauty of sites; or obstruct any other natural use of water'.

The dumping of waste on beaches likewise constitutes a principal source of coastal pollution. Waste is defined as 'discarded or abandoned materials that cannot be directly recovered or reused'. The waste deposited on beaches varies in nature. This includes municipal waste from coastal residences, facilities, commercial premises, construction activities, public spaces and parks and gardens near or on beaches. Examples of this waste include plastic bags[10], recreational toys, medical waste and glass and plastic bottles. It also includes tidal and marine debris — waste washed ashore from the sea, such as wood and lost fishing nets[11]. The level of beach pollution varies from one coastal area to another, depending on several factors, most notably population density and the intensity of industrial activity.

Waste therefore has destructive effects on the marine environment, as the organic matter in waste decomposes into liquid substances and toxic gases, such as sulfur dioxide and nitrogen oxides. Furthermore, its accumulation occupies large areas of beaches, thereby affecting fish and wildlife along these coasts[12]. The dumping of waste on beaches also alters their natural state and degrades them, preventing water-related activities, such as fishing and swimming, from being carried out there.

Second: The Elements of the Crime of Beach Pollution

The crime of beach pollution consists of several elements, namely the legal element (1), the material element (2), and the moral element (3), which will be examined below.

1. The Legal Element of the Offence of Beach Pollution

The legal element of an offence is the applicable criminalising provision, which must predate the act of encroachment. This embodies one of the fundamental principles of criminal law: the principle of the legality

[9]- Qasim bin Musaid bin Qasim Al-Faleh, previously cited reference, pp. 473–474.

[10]- Qasim bin Musaid bin Qasim Al-Faleh, previously cited reference, pp. 473–474.

[11]- "Definition and Types of Marine Litter," available at: https://ar.wikipedia.org, accessed on 20/09/2026 at 20:00.

[12]- Qasim bin Musaid bin Qasim Al-Faleh, previously cited reference, p. 474.

of offences and penalties[13]. This principle requires the criminal provision prohibiting encroachment upon beaches to be clear and precise, since there can be no offence or penalty without a legal provision[14].

The scarcity or absence of statutory provisions criminalising various forms of beach encroachment has led to the principle of legality being broadly interpreted in environmental criminal law to provide criminal-law protection for beaches and prevent all forms of harm to them. This is particularly important because beaches are among the areas most vulnerable to environmental damage, which is often ongoing rather than immediate. This approach is grounded in the application of the 'precautionary principle', which requires the environment to be afforded criminal law protection before environmental damage occurs.

Law No. 03-10 of 19 July 2003 on the Protection of the Environment within the Framework of Sustainable Development prohibits practices that may pollute the sea or aquatic environments, damage marine ecosystems or harm public health. It also prescribes penalties for these practices. These provisions may also be invoked to criminalise beach pollution, given that beaches are an integral part of the marine ecosystem. The aim of safeguarding the marine environment and its living and non-living natural resources from pollution is to protect the state's coasts and beaches from all types of pollution, whether from human activity or natural causes, by preventing it, reducing its impact and controlling it.

Under Algerian jurisdiction, it is prohibited to discharge, immerse or incinerate substances in marine waters if such acts are likely to:

- harm public health and marine ecosystems;
- obstruct maritime activities, including navigation, aquaculture and marine fishing;
- deteriorate the quality of marine waters in terms of their use;
- reduce the recreational and aesthetic value of the sea and coastal areas, thereby undermining their tourism potential[15].

It is also prohibited to dump, discharge or allow substances to leak directly or indirectly into seawater under Algerian jurisdiction if their effects or reactions cause harm, even temporarily, to human, plant or animal health or restrict the use of swimming areas[16]. This is because the risk of water pollution resulting from the discharge or immersion of toxic substances, such as oils and gases, into seawater may extend to beaches, causing serious harm to humans and numerous species of plants and animals.

[13]- Mohamed Mahmoud Al-Sharkasi, previously cited reference, p. 341.
[14]- Mohamed Mahmoud Al-Sharkasi, previously cited reference, p. 347.
[15]- Article 52 of Law No. 03-10 of 19 July 2003 on the Protection of the Environment within the Framework of Sustainable Development.
[16]- Paragraph 1 of Article 100 of Law No. 03-10 of 19 July 2003 on the Protection of the Environment within the Framework of Sustainable Development.

Accordingly, any violation of these provisions by the master of an Algerian vessel or aircraft, or by any person supervising dumping or incineration operations at sea aboard Algerian equipment or fixed or mobile platforms in Algerian waters, constitutes a punishable offence[17]. Furthermore, if the master of a vessel causes a maritime accident through misconduct, recklessness, negligence or failure to comply with laws and regulations, or if they fail to control or prevent such an accident resulting in the discharge of substances that pollute waters under Algerian jurisdiction, this shall also constitute a punishable offence[18].

Similarly, if the master of a vessel carrying dangerous, toxic or polluting goods fails to report a maritime accident occurring on board that could threaten to pollute or degrade the marine environment, national waters or coastlines, or cause harm to a person or facility while sailing near or within waters under Algerian jurisdiction, this shall constitute a punishable offence[19].

Similarly, Law No. 03-10 of 19 July 2003 on the Protection of the Environment within the Framework of Sustainable Development prohibits the dumping or abandonment of waste on beaches and along the seashore[20]. Accordingly, commercial, industrial, agricultural and tourism-related establishments, as well as others, are required not to discharge or dump any untreated substances, waste or liquids that could cause direct or indirect pollution of the marine environment. Such discharges must comply with the relevant regulations, particularly those governing the regulation or prohibition of the direct or indirect flow, runoff, discharge or leakage of water and substances. In general, this includes any act that could affect the quality of surface water, groundwater or coastal waters[21].

The Algerian legislator has consequently established penalties of up to two years' imprisonment and fines of up to five hundred thousand Algerian dinars (DZD 500,000) for anyone who dumps, discharges or allows any substance to leak into seawater under Algerian jurisdiction where the effects harm human, plant or animal health, or restrict the use of swimming areas, even temporarily[22].

[17]- Paragraph 1 of Article 90 of Law No. 03-10 of 19 July 2003 on the Protection of the Environment within the Framework of Sustainable Development.

[18]- Paragraphs 1 and 2 of Article 97 of Law No. 03-10 of 19 July 2003 on the Protection of the Environment within the Framework of Sustainable Development.

[19]- Articles 98 and 99 of Law No. 03-10 of 19 July 2003 on the Protection of the Environment within the Framework of Sustainable Development.

[20]- Paragraph 4 of Article 100 of Law No. 03-10 of 19 July 2003 on the Protection of the Environment within the Framework of Sustainable Development.

[21]- Paragraphs 1 and 2 of Article 50 of Law No. 03-10 of 19 July 2003 on the Protection of the Environment within the Framework of Sustainable Development.

[22]- Paragraph 1 of Article 100 of Law No. 03-10 of 19 July 2003 on the Protection of the Environment within the Framework of Sustainable Development.

The legislator has also established a penalty of two years' imprisonment and a fine of 500,000 Algerian dinars for dumping or leaving substantial quantities of waste in seawater under Algerian jurisdiction, as well as on beaches and along the seashore[23].

2. The material element of the crime of beach pollution

This consists of a natural or legal person engaging in direct or indirect conduct or action that infringes the beach or its associated facilities, or failing to perform an act that would preserve the beach's natural state, resulting in pollution. Criminal conduct in the context of beach pollution involves violating various legislative and regulatory provisions relating to the protection of the coastal and marine environment. Such conduct may be positive, involving the commission of an act, or negative, involving the omission of an act; the latter is the most common form of conduct leading to marine environmental crimes.

From the nature of the legal provisions relating to the protection of the marine environment, it can be inferred that merely refraining from implementing these provisions is sufficient to establish a marine environmental crime, even in the absence of actual damage. This is because criminal conduct in some beach pollution offences may only cause damage after a period of time, i.e. in the medium or long term, thereby posing an imminent threat to the coastal environment.

3. The moral element of the crime of beach pollution

The crime of beach pollution requires more than just a material act, such as committing or refraining from committing an act that is criminalised by law. Rather, the criminal conduct must be accompanied by the moral element, which is the intention to commit the crime. The moral element of any crime refers to criminal intent; that is, the perpetrator's intention to engage in specific conduct while being aware that it is criminalised and punishable by law. In other words, it refers to the perpetrator's intention to violate legislative and regulatory provisions relating to environmental protection and the protection of public property, of which beaches are a part.

Beach pollution is a material offence, in which the moral element is inferred from the material conduct itself. 'What matters is that the person causes the criminalised act to occur, even if they did not intend to do so, which makes such offences material offences regardless of the criminal intent involved[24].' Criminal conduct may sometimes be intentional, meaning the person intends to perform the act and produce the resulting effect: beach pollution. In other cases, however, the person may intend to perform the material act without intending to cause the resulting outcome.

[23]- Paragraph 4 of Article 100 of Law No. 03-10 of 19 July 2003 on the Protection of the Environment within the Framework of Sustainable Development.

[24]- Mohamed Mahmoud Al-Sharkasi, previously cited reference, p. 347.

However, the continued infringement of the beach is sufficient to establish the criminal intent required for the crime of beach pollution and to classify it as an intentional offence. This can be inferred from Egyptian Law No. 4 of 1994, promulgating the Environmental Law on 27 January 1994, which provides under Article 69 that: 'Each day on which the prohibited discharge of any untreated substances, waste or liquids likely to cause pollution of Egyptian beaches or adjacent waters continues, whether carried out intentionally or unintentionally, directly or indirectly by all establishments, including public premises and commercial, industrial, tourism-related and service establishments, shall constitute a separate violation[25].'

Subsection Two: Crimes Relating to the Tourist Exploitation and Use of Beaches

Law No. 3 of 17 February 2003 establishes the general rules governing the tourist use and exploitation of beaches and criminalises the concession holder's failure to fulfil the various obligations imposed on them under the concession contract. Such violations take several forms, which will be examined in detail below.

First: Tourist exploitation of beaches without a concession right

Beaches are spaces for relaxation and recreation, meaning that beachgoers have the right to enjoy their beauty and spend their leisure time there without obstacles. However, such obstacles are often deliberately created by individuals who violate the law and disregard the principle of guaranteeing free access to beaches open for swimming and freedom of movement within them in pursuit of money and profit, despite having no legal entitlement to do so.

Accordingly, pursuant to the express provisions of Article 4 of Law No. 03-02 of 17 February 2003, which establishes the general rules governing the tourist use and exploitation of beaches, the Algerian legislator made the tourist exploitation of beaches open for swimming subject to a concession right, in accordance with a set of specifications and the provisions of this Law. Therefore, all beach exploitation must be carried out in strict accordance with the designated purpose of the space[26].

Consequently, any tourist exploitation of a beach without a concession is prohibited[27]. Engaging in this activity without a concession constitutes a violation of Article 49 of Law No. 03-02, requiring the immediate and complete removal of all installed equipment on the exploited beach at the offender's expense[28]. Offenders shall be punished by imprisonment for a term ranging from three months to one year and a fine

[25]- Law No. 4 of 1994 of 27 January 1994 promulgating the Environmental Law, Official Gazette of the Arab Republic of Egypt, No. 05, published on 3 February 1994.

[26]- Paragraph 2 of Article 7 of Law No. 03-02 of 17 February 2003 establishing the general rules governing the use and tourist exploitation of beaches, Official Gazette No. 11, published on 19 February 2003, corresponding to 18 Dhu al-Hijjah 1423 AH.

[27]- Paragraph 1 of Article 13 of Law No. 03-02 of 17 February 2003 establishing the general rules governing the use and tourist exploitation of beaches.

[28]- Paragraph 2 of Article 13 of Law No. 03-02 of 17 February 2003 establishing the general rules governing the use and tourist exploitation of beaches.

ranging from one hundred thousand to three hundred thousand Algerian dinars, or by either of these two penalties.

However, it is worth noting that, like some other coastal countries, including European ones, the Algerian coastline has witnessed countless violations during the summer season as a result of the illegal exploitation of its beaches for tourism purposes. Beach equipment rental networks commonly occupy part of the beach without holding a concession to exploit it for tourism purposes, setting up parasols, tables and reclining chairs and effectively turning that part of the beach into a private area. This prevents visitors from occupying even a small part of the beach with their own chairs or towels. They may even be forced to leave if they refuse to pay for the rental of tables and chairs.

Consequently, beachgoers are forced to leave or move farther away in an attempt to avoid more serious misconduct, which is often characterised by verbal and physical violence. This creates considerable scope for an increase in the rate of violations amid citizens' lack of awareness of their rights and the absence or inadequacy of criminal deterrence against such violations.

Secondly, the criminalisation of the concession holder's failure to comply with the general rules governing the tourist exploitation of beaches is necessary.

Under the provisions of Law No. 03-02, which establishes the general rules governing the tourist use and exploitation of beaches, the Algerian legislator has criminalised the concession holder's failure to fulfil their various obligations under the concession contract. These violations can be examined under three main categories, as follows:

1. Failure of the Hotel Establishment Holding a Concession for the Tourist Exploitation of the Beach to Comply with the Rules Governing the Operation of Hotel Establishments

Regardless of their type or classification, hotel establishments are often given priority when concessions for the tourist exploitation of beaches are granted, given their role in promoting beach tourism. They are an instrument through which the state can develop and advance the tourism sector. To achieve this objective, hotel activities must be regulated.

In this regard, Law No. 99-01 of 6 January 1999 establishes the rules relating to hotel establishments and criminalises violations of the rules governing their operation. Title IV, entitled 'Hotel Regulation', specifically Chapter I thereof, addresses the provisions governing the investigation and recording of violations, which take various forms, including:[29]

[29]- Law No. 99-01 of 6 January 1999 establishing the rules relating to hotel establishments, Official Gazette No. 02, published on 10 January 1999.

- Failure to display prices for services in a clearly legible manner, including service charges and fees.

Failure to maintain guest information cards.

- Failure to issue invoices to customers detailing the services provided in nominal or coded form, including a serial number that must appear on the original or copy, as well as the name and classification of the establishment and its commercial registration number.
- Failure to comply with hygiene, public health, safety and security rules.
- Failure to install an illuminated external sign indicating the nature of the establishment's activity and a sign displaying its classification.

Failure to illuminate the façade at night.

Failure to make a complaints register available to customers which must be prominently displayed, numbered and signed by the tourism administration responsible.

2. Failure of the holder of a beach exploitation concession to comply with public health rules

The proper operation of tourist exploitation on a concessioned beach depends largely on the holder's compliance with public health rules, since holidaymakers visiting the beach are the weaker party in the economic relationship arising from the concession agreement. The effects of the beach tourist exploitation concession agreement cannot be confined to the two parties involved; otherwise, the objective of granting this concession would not be achieved.

Accordingly, beach exploitation and the promotion of tourism activities must be subject to health and environmental protection rules. Therefore, the holder of a concession for the tourist exploitation of a beach is prohibited from engaging in acts that may affect the health and safety of holidaymakers, or undermine their comfort, security and peace of mind. These acts include the following:

Failure to regularly maintain the beach and its facilities and exploitation equipment.

Failure to remove waste and various objects that pose a danger to holidaymakers.

Failure of the hotel establishment holding the concession to comply with hygiene, public health, security and protection rules[30].

Accordingly, pursuant to the provisions of Article 48 of Law No. 03-02 establishing the general rules governing the tourist use and exploitation of beaches, the holder of a concession for the tourist exploitation of a beach who commits these violations shall be punished with the same penalties stipulated in the law relating to the management, control, and disposal of waste. These penalties are imprisonment for a period

[30]- Article 61 of Law No. 99-01 of 6 January 1999 establishing the rules relating to hotel establishments.

of one to three years and a fine ranging from six hundred thousand to nine hundred thousand dinars, or either of these two penalties. These penalties shall be doubled in the event of reoffending[31].

Furthermore, to provide holidaymakers with the greatest possible comfort, safety and security, Law No. 03-02 of 17 February 2003, which establishes the general rules governing the tourist use and exploitation of beaches, prohibits the following:

- The use of any vehicle, whether motorised or sailing, as well as any other marine equipment, within a distance of at least one hundred metres from the designated swimming area[32].
- Underwater fishing in the vicinity of the beach during the summer season[33].

The practice of horse riding in all its forms on beaches while holidaymakers are present, whether individually or in groups[34].

Accordingly, engaging in such recreational activities in areas where holidaymakers are present is a violation punishable by fines ranging from 20,000 to 60,000 Algerian dinars[35].

It is worth noting that the Algerian legislator overlooked establishing a criminal penalty for concession holders failing to fulfil their obligation to protect and properly maintain signposts marking the boundaries of swimming areas. This omission must be remedied, since failure to fulfil this obligation may expose holidaymakers to the risk of drowning.

3. Failure of the concession holder to fulfil the obligation to preserve the natural state of the beach

In order to protect the coastal environment, the Algerian legislator has required the holder of a concession for the tourist exploitation of a beach to preserve the natural state of the beach in question and to strictly comply with the beach development plan attached to the concession agreement. Accordingly, the concession holder is prohibited from engaging in the following activities:

A. Committing any act that causes a deterioration in seawater quality or impairs its utility value

The holder of a concession for the tourist exploitation of a beach is prohibited from engaging in any act that may deteriorate the quality of the seawater or impair its utility value for its intended use[36]. The following examples may be cited, without limitation:

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[31]- Article 64 of Law No. 01-19 of 12 December 2001 on the Management, Control and Disposal of Waste, Official Gazette No. 77, published on 15 December 2001, corresponding to 30 Ramadan 1422 AH.

[32]- Article 36 of Law No. 03-02 of 17 February 2003 establishing the general rules governing the use and tourist exploitation of beaches.

[33]- Article 37 of Law No. 03-02 of 17 February 2003 establishing the general rules governing the use and tourist exploitation of beaches.

[34]- Article 38 of Law No. 03-02 of 17 February 2003 establishing the general rules governing the use and tourist exploitation of beaches.

[35]- Articles 51, 53 and 54 of Law No. 03-02 of 17 February 2003 establishing the general rules governing the use and tourist exploitation of beaches.

[36]- Article 10 of Law No. 03-02 of 17 February 2003 establishing the general rules governing the use and tourist exploitation of beaches.

- Failure to regularly maintain the beach and its facilities and exploitation equipment.

Failure to remove waste and various objects that pose a danger to holidaymakers.

- Allowing customers to use any vehicle, whether motorised or sailing, as well as any other marine equipment, within a distance of at least 100 metres from the designated swimming area.

Installing or constructing barriers or obstacles that restrict the free movement of living aquatic resources.

Excavating or dredging soil or vegetation from beach waters in a way that harms living aquatic resources.

Using tools or equipment, or carrying out any activities that may damage or threaten living aquatic resources or their natural environment.

Accordingly, if the holder of a concession for the tourist exploitation of a beach engages in such practices, this constitutes a violation punishable by the same penalty stipulated in Law No. 03-10 on the Protection of the Environment within the Framework of Sustainable Development: imprisonment for a period of two years and a fine of five hundred thousand dinars (DZD 500,000)[37].

B. Removal or Extraction of Sand, Gravel, and Stones

The holder of a concession for the tourist exploitation of a beach is prohibited from removing or extracting gravel[38], sand, and stones from the beach with the aim of increasing the area of the part of the beach covered by the exploitation concession, or from carrying out random filling operations to establish unauthorized landfills or reclamation structures. Such practices have a significant impact on disturbing the ecological balance of the beach and altering its natural state.

Accordingly, in order to protect and enhance the value of the coastline, the Algerian legislator has made it a criminal offence to remove or extract gravel, sand and stones, particularly mortar materials, from beaches. Anyone who violates the provisions of Article 20 of Law No. 02-02 of 5 February 2002 relating to the protection and enhancement of the coastline, which absolutely prohibits the extraction of these materials, shall be punished by imprisonment for a period ranging from six to two years and a fine ranging from two hundred thousand to two million dinars, or either of these penalties.

Therefore, the holder of a beach exploitation concession cannot fulfil their obligation to ensure compliance with public health rules when the natural state of the beach and its facilities are being damaged. Any act that impairs the utility value of seawater or deteriorates its quality constitutes an infringement of public health and poses a direct threat to it.

Section Two: Investigation and Recording of Crimes Affecting Beaches

[37]- Paragraph 1 of Article 100 of Law No. 03-10 of 19 July 2003 on the Protection of the Environment within the Framework of Sustainable Development.

[38]- Article 32 of Law No. 03-02 of 17 February 2003 establishing the general rules governing the use and tourist exploitation of beaches.

The Algerian legislator has introduced several legal provisions to regulate the investigation and recording of crimes affecting beaches. In this regard, certain agents and officials belonging to various bodies have been granted the authority to investigate and record such crimes (First Subsection), in accordance with specific methods and procedures (Second Subsection).

First subsection: Bodies competent to investigate and record crimes affecting beaches

In addition to judicial police officers and agents who are authorised under the provisions of the Code of Criminal Procedure, as well as inspection authorities who are authorised by current legislation, and officials and agents who are authorised under Article 21 of the Code of Criminal Procedure, violations of Law No. 03-02, which establishes the general rules governing the tourist use and exploitation of beaches, are investigated and recorded by judicial police officers and agents, tourism inspectors, price and economic investigation inspectors, quality control and fraud prevention inspectors, and environmental inspectors[39].

Tourism inspectors, economic control agents and judicial police officers are also authorised to investigate and record violations of the rules governing the operation of hotel establishments[40]. In the performance of their duties, tourism inspectors monitor the implementation of Law No. 03-02 with regard to the protection, development and exploitation of beaches, and the conformity of completed developments with the beach development plan[41].

In this regard, Law No. 02-02 relating to the protection and enhancement of the coastline authorises judicial police officers and agents, as well as environmental inspectors and inspection services subject to the Code of Criminal Procedure, to investigate, record and establish violations of the provisions of this law and the texts adopted for its implementation[42].

These same individuals are also authorised to investigate and record violations of Law No. 03-03 relating to Tourist Expansion Zones and Tourist Sites[43].

Pursuant to Article 111 of Law No. 03-10 relating to the Protection of the Environment within the Framework of Sustainable Development, environmental inspectors, technical personnel from the environmental administration, civil protection officers and agents, maritime affairs administrators, port officers, National Coastal Guard Service agents, National Navy vessel commanders, maritime signalling service engineers, State oceanographic vessel commanders, Scientific and Technical Research Institute of

[39]- Article 39 of Law No. 03-02 of 17 February 2003 establishing the general rules governing the use and tourist exploitation of beaches.
[40]- Article 69 of Law No. 99-01 of 6 January 1999 establishing the rules relating to hotel establishments.
[41]- Article 41 of Law No. 03-02 of 17 February 2003 establishing the general rules governing the use and tourist exploitation of beaches.
[42]- Article 37 of Law No. 02-02 of 5 February 2002 on the Protection and Enhancement of the Coast, Official Gazette No. 10, published on 12 February 2002.
[43]- Article 33 of Law No. 03-03 of 17 February 2003 relating to Tourist Expansion Zones and Tourist Sites.

Marine Sciences technical agents, and customs officers are authorised to investigate and record violations of this Law[44].

Examining the provisions of Laws No. 02-02 and No. 03-02, which relate to the protection and enhancement of the coastline and the general rules governing the tourist use and exploitation of beaches respectively, as well as Law No. 03-10, which relates to the protection of the environment within the framework of sustainable development, reveals that the Algerian legislator has entrusted environmental inspectors, technical personnel of the environmental administration, and tourism inspectors — each within the scope of their respective competence — with the task of investigating, recording, and establishing violations of the legal provisions relating to the coastal environment. This is due to their scientific and technical qualifications, which enable them to investigate and record crimes affecting the components of the coastal environment — of which beaches are a part — unlike others. Assigning a specific category of enforcement officers to investigate and record crimes affecting beaches demonstrates the Algerian legislator's commitment to protecting and enhancing the coastal environment.

It is worth noting that the powers granted to environmental inspectors, technical personnel of the environmental administration, and tourism inspectors in the field of coastal environmental protection are part of their core duties under the basic statutes governing their employment. Pursuant to Executive Decree No. 08-232 of 22 July 2008, which establishes the special statute for employees belonging to the specific corps of the administration responsible for the environment and territorial planning, environmental inspectors are responsible for investigating and recording violations of environmental protection legislation and regulations. They are also responsible for ensuring the implementation of legislation and regulations relating to environmental protection, the preservation of animals and plants, the conservation of natural resources, and the protection of the air, water and marine environments against degradation. They are also responsible for ensuring compliance with waste treatment and disposal requirements, taking water samples, and participating in the preparation of environmental impact assessment reports[45].

Furthermore, pursuant to the provisions of Executive Decree No. 08-302 of 24 September 2008, which established the special statute for employees belonging to the corps of tourism inspectors, tourism inspectors are responsible for ensuring the implementation of tourism-related legislation and regulations by conducting investigations into hotel and tourism activities[46]. This is likely to help reduce crimes relating to the

[44]- Law No. 03-10 of 19 July 2003 on the Protection of the Environment within the Framework of Sustainable Development.

[45]- See Articles 33, 45 and 46 of Executive Decree No. 08-232 of 22 July 2008 establishing the special statutory framework for employees belonging to the specific corps of the administration responsible for the environment and spatial planning, Official Gazette No. 43, published on 30 July 2008.

[46]- Article 19 of Executive Decree No. 08-302 of 24 September 2008 establishing the special statutory framework for employees belonging to the corps of tourism inspectors, Official Gazette No. 56, published on 28 September 2008, p. 08.

exploitation of beaches for tourism purposes, particularly since priority for obtaining concessions for the exploitation of beaches for tourism purposes is granted to classified hotel establishments adjacent to beaches. The activities of these establishments often cause the deterioration of seawater quality and diminish the aesthetic value of the beaches they exploit.

Additionally, the Algerian legislator has granted price and economic investigation inspectors, as well as quality control and fraud prevention inspectors, the authority to investigate and record violations of Law No. 03-02, which establishes the general rules governing the tourist use and exploitation of beaches, and violations of the rules governing the operation of hotel establishments[47]. This reflects the Algerian legislator's commitment to protecting consumers of tourism services provided on exploited beaches[48]. Together, price and economic investigation inspectors and quality control and fraud prevention inspectors are responsible for examining whether the holder of a concession for the tourist exploitation of a beach has fulfilled the various obligations imposed on them under the concession agreement, particularly with regard to the following:[49]

- Ensuring the comfort, security and peace of mind of holidaymakers.

Maintaining the good condition of the equipment necessary for the proper use of the beach.

- Complying with the beach development plan attached to the concession agreement.

Developing the beach and its facilities for tourist use

- Ensuring the cleanliness of the beach by removing waste and other items that spoil its appearance or pose a danger to holidaymakers.
- Displaying the prices of services provided to holidaymakers.
- Ensuring the protection and proper maintenance of signposts marking the boundaries of swimming areas.

Furthermore, if a hotel establishment is responsible for the tourist exploitation of the beach, price and economic investigation inspectors, as well as quality control and fraud prevention inspectors, are responsible for verifying the hotel establishment's compliance with the rules governing the operation of hotel establishments, particularly with regard to the following:[50]

The hotel is obliged to display the prices of its services in a clearly legible manner, including any additional fees.

The hotel is also obliged to maintain information cards on its customers.

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[47]- Article 39 of Law No. 03-02 of 17 February 2003 establishing the general rules governing the use and tourist exploitation of beaches.

[48]- Article 69 of Law No. 99-01 of 6 January 1999 establishing the rules relating to hotel establishments.

[49]- See Articles 30 and 31 of Law No. 03-02 of 17 February 2003 establishing the general rules governing the use and tourist exploitation of beaches.

[50]- See Articles 56, 57, 59, 61, 64, 65 and 67 of Law No. 99-01 of 6 January 1999 establishing the rules relating to hotel establishments.

The hotel establishment must prepare invoices that specify the various services provided to the customer, including a serial number that must appear on the original or copy, as well as the name of the establishment, its classification and its commercial registration number.

The hotel establishment must comply with hygiene, public health, security and protection rules.

The hotel is obliged to install an illuminated external sign indicating the nature of its activity, as well as a sign indicating its classification.

The hotel establishment must illuminate its façade at night.

The hotel establishment must make a register of complaints available to customers which is conspicuous, numbered and signed by the tourism administration.

The performance of these duties by price and economic investigation inspectors, as well as quality control and fraud prevention inspectors, falls within the scope of their assigned tasks under Executive Decree No. 09-415 of 16 December 2009, which establishes the special statute applicable to employees belonging to the specific corps of the administration in charge of trade. Under this Decree, competition and economic investigation controllers and investigators are responsible for identifying and documenting any violations of legislation and regulations in force, and for taking the precautionary measures provided for in the field of competition and economic investigations where appropriate. The Decree also assigns quality control and fraud prevention inspectors and controllers the task of searching for and recording any violation of the legislation and regulations in force, and taking the precautionary measures provided for in the field of fraud prevention where appropriate[51].

Subsection Two: Procedures for Investigating and Recording Crimes Affecting Beaches

Environmental crimes affecting beaches are often investigated and recorded following a reporting procedure. Every natural or legal person who possesses information relating to environmental components that may directly or indirectly affect public health is obliged to submit such information to the local authorities and/or the environmental authorities[52]. This procedure is important because it helps to prevent and limit the effects of environmental crimes affecting beaches.

Article 57 of Law No. 03-10 on the Protection of the Environment within the Framework of Sustainable Development provides an example of the application of the reporting procedure in the field of marine environmental protection, of which beaches form a part. According to this article, the captain of any vessel carrying dangerous, toxic or polluting goods and navigating in waters under Algerian jurisdiction must

[51]- See Articles 19, 26, 40, 52 and 55 of Executive Decree No. 09-415 of 16 December 2009 establishing the special statutory framework applicable to employees belonging to the specific corps of the administration responsible for trade, Official Gazette No. 75, published on 20 December 2009.

[52]- Article 08 of Law No. 03-10 of 19 July 2003 on the Protection of the Environment within the Framework of Sustainable Development.

report any incident at sea that could pollute or damage the marine environment, national waters or coastlines. The report can be submitted to environmental inspectors, maritime affairs administrators, port officers, National Coastal Guard Service agents, National Navy vessel commanders, maritime signalling service engineers or customs officers[53].

Investigations into crimes involving the tourist exploitation of beaches involve entering the premises and obtaining explanations and various documents. The holder of a concession for the tourist exploitation of a beach may be subject to unannounced inspections by authorised agents to determine compliance with the rules and conditions governing the use of the beach for tourist purposes, and to check that the facilities constructed comply with the beach development plan[54]. The result is an official report in which the authorised agent clearly describes the observed facts and statements received. The report is signed by the inspecting agent and the offender. If the offender refuses to sign, the report retains its evidentiary value until proven otherwise. Depending on the circumstances, the report is sent to the territorially competent Wali and/or the relevant judicial authority within fifteen days of the inspection[55].

Legally authorised agents may also enter the hotel establishment that holds the concession for the tourist exploitation of the beach, unobstructed[56]. The inspecting agent prepares an accurate report describing the observed facts and received statements. This report is signed by the agent conducting the inspection and the offender. If the offender refuses to sign the report, it retains its evidentiary value until proven otherwise. Depending on the circumstances, the report is sent to either the territorially competent Public Prosecutor or the authority responsible for tourism within eight days[57].

Furthermore, breaching the rules governing the use and tourist exploitation of beaches may also constitute a violation of Law No. 02-02 on the Protection and Enhancement of the Coast and associated implementing legislation. Accordingly, when investigating and recording such violations, the inspecting agent must establish them in official reports that retain their evidentiary value until proven otherwise. Under penalty of nullity, these reports must be sent to the territorially competent Public Prosecutor within five days, and a copy must be sent to the relevant administrative authority[58].

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[53]- Article 111 of Law No. 03-10 of 19 July 2003 on the Protection of the Environment within the Framework of Sustainable Development.

[54]- Article 41 of Law No. 03-02 of 17 February 2003 establishing the general rules governing the use and tourist exploitation of beaches.

[55]- Article 40 of Law No. 03-02 of 17 February 2003 establishing the general rules governing the use and tourist exploitation of beaches.

[56]- Article 60 of Law No. 99-01 of 6 January 1999 establishing the rules relating to hotel establishments. Furthermore, pursuant to Article 70 of the same Law, agents legally authorised to investigate and establish violations of the rules governing the operation of hotel establishments are empowered to request the assistance of the public authorities if they are prevented from performing their duties.

[57]- Article 71 of Law No. 99-01 of 6 January 1999 establishing the rules relating to hotel establishments.

[58]- Article 38 of Law No. 02-02 of 5 February 2002 on the Protection and Enhancement of the Coast.

It should be noted that seashores may form part of tourist expansion zones[59]. These are areas that are extensions of the territory and are characterised by natural, cultural or creative features or specificities that are suitable for tourism. They are also capable of accommodating or developing tourist facilities[60]. These zones can be used to develop one or more profitable forms of tourism, such as marine thermal tourism and seawater therapy[61], as well as recreational and leisure tourism[62]. They may also be considered tourist sites[63] due to their picturesque appearance, natural wonders, specific features, or structures with recognised historical, artistic, legendary, or cultural significance. This requires their authenticity to be enhanced and them to be preserved against deterioration or disappearance caused by nature or human activity.

This empowers judicial police officers, tourism inspectors, urban planning inspectors and environmental inspectors who are qualified to investigate and record violations of Law No. 03-03 on Tourist Expansion Zones and Tourist Sites[64]. They are authorised to:

Enter tourist expansion zones and tourist sites, as well as infrastructure and facility construction sites within these zones and sites.

Verify the implementation of the provisions of this Law relating to the protection, development and exploitation of these zones and sites.

Verify the availability of permits relating to concession operations and the transfer of developed tourist land, as well as the building permits required by this law.

Verify that the completed works comply with the tourist development plan, the specifications document and the previously approved architectural plans[65].

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[59]- For the purposes of Law No. 03-03 of 17 February 2003 relating to Tourist Expansion Zones and Tourist Sites, Official Gazette No. 11, published on 19 February 2003, tourist expansion zones are defined as "any area or expanse of territory characterised by natural, cultural, human and creative qualities or specific features suitable for tourism, qualified for the establishment or development of a tourist facility, and capable of being exploited to develop one or more profitable forms of tourism."

[60]- For the purposes of Law No. 03-01 of 17 February 2003 on Sustainable Tourism Development, marine thermal tourism is defined as "any tourist stay on a seashore during which tourists, in addition to marine leisure activities, engage in other activities associated with recreational activities in the marine environment," p. 05.

[61]- For the purposes of Law No. 03-01 on Sustainable Tourism Development, thalassotherapy tourism is defined as "any travel undertaken for natural therapeutic purposes using seawater, intended for clients requiring treatment in an environment equipped with therapeutic, relaxation and recreational facilities," p. 05.

[62]- For the purposes of Law No. 03-01, recreational and leisure tourism is defined as "any leisure activity undertaken by tourists during their stay at tourist sites or in tourist establishments, such as amusement and recreation parks, mountain sites, and cultural and sports facilities," p. 06.

[63]- For the purposes of Law No. 03-03 of 17 February 2003 relating to Tourist Expansion Zones and Tourist Sites, a tourist site is defined as "any landscape or location characterised by tourist appeal because of its picturesque appearance, the wonders or natural features it contains, or the structures built upon it, and recognised as having historical, artistic, legendary or cultural significance, whose authenticity must be enhanced and which must be protected against deterioration or disappearance caused by nature or human activity," p. 15.

[64]- Article 33 of Law No. 03-03 of 17 February 2003 relating to Tourist Expansion Zones and Tourist Sites.

[65]- Article 36 of Law No. 03-03 of 17 February 2003 relating to Tourist Expansion Zones and Tourist Sites.

Inspection of a violation results in the preparation of an official report, in which the inspecting agent accurately describes the observed facts and statements received. The report is signed by both the inspecting agent and the offender. If the offender refuses to sign, the report retains its evidentiary value until proven otherwise. Depending on the circumstances, the report is sent to the territorially competent Wali and/or the competent judicial authority within fifteen days of the inspection[66].

Furthermore, any breach of the regulations governing the use and tourist exploitation of beaches constitutes a violation of the provisions of Law No. 03-10 on the Protection of the Environment within the Framework of Sustainable Development. Accordingly, any violation of the provisions of this law and the texts adopted for its implementation is established through official reports with evidentiary value. Under penalty of nullity, these reports must be sent to the Public Prosecutor, as well as to the person concerned, within fifteen days of their preparation[67].

Conclusion:

The Algerian legislator has established legal protection for beaches through several legislative texts, including the Law on the Protection and Enhancement of the Coast and the Law on the Protection of the Environment within the Framework of Sustainable Development. Numerous administrative bodies, at both the central and local levels, have been entrusted with the task of preserving the coast by employing preventive and deterrent measures against various acts of aggression and encroachment upon the natural state of beaches. However, despite the State's efforts to develop and promote coastal areas by eliminating informal residential settlements and combatting pollution, Algerian beaches continue to experience serious violations affecting their sensitive ecological environments due to intensive industrial activities and urban expansion along the coast.

Given that beaches are one of Algeria's most important resources and a fundamental pillar for increasing revenues and investing in the tourism sector, it is crucial to establish effective legal and regulatory frameworks to achieve the desired economic returns. Accordingly, the following recommendations are put forward to strengthen the legal protection of beaches:

- It is imperative to strengthen the legal framework for environmental protection and the protection and enhancement of the coast through legal provisions criminalizing all forms of encroachment upon and interference with the natural state of beaches and their associated facilities.

There is a need to introduce a legal provision that regulates the application of environmental impact assessments in relation to the use and exploitation of beaches. This provision should define the scope of

[66]- Article 35 of Law No. 03-03 of 17 February 2003 relating to Tourist Expansion Zones and Tourist Sites.

[67]- Article 112 of Law No. 03-10 of 19 July 2003 on the Protection of the Environment within the Framework of Sustainable Development.

environmental impact assessments, the bodies responsible for conducting them and the procedures to be followed. All projects established near beaches and their associated facilities should be subject to environmental impact assessments through specialised scientific research and various administrative procedures to ensure sustainable economic development.

- There is a need to raise environmental awareness among civil society and involve community members in decisions concerning the granting of permits for projects to be established near beaches and their associated facilities.

- Environmental associations should raise citizens' awareness of the ecological damage to the coast resulting from the indiscriminate exploitation and pollution of the beach environment. This will promote environmental culture and awareness among citizens, strengthening their sense of responsibility towards the coastal environment. This would enable citizens to relax and enjoy the beauty of the beach without altering its natural state, thereby preserving this vital resource for future generations.

- Environmental fines should be imposed in coastal areas on those who commit environmental violations on beaches, particularly those relating to non-compliance with hygiene rules and encroachment upon the natural state of beaches. Penalties for environmental crimes in coastal areas should also be made more stringent.

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- Law No. 03-01 of 17 February 2003 relating to the sustainable development of tourism (Official Gazette No. 11, issued on 19 February 2003).

- Law No. 03-02, also issued on 17 February 2003, establishes the general rules governing the use and tourist exploitation of beaches.
- Law No. 03-03 of 17 February 2003 relating to tourist expansion zones and tourist sites (Official Gazette No. 11, issued on 19 February 2003).

- Law No. 03-10 of 19 July 2003 relating to the protection of the environment within the framework of sustainable development (Official Gazette No. 43, 20 July 2003).
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