

Chapter 21: Environmental Legislation

Introduction

The practical application of Environmental Law No. 4/1994 and its executive regulation as well as the development of the environmental thought during the past years have demonstrated the need for introducing necessary amendments to some of the executive regulation provisions. Such amendments target either the rectification of some shortages in environmental compliance provisions, the organization of environmental protection within the scope of the Law and its executive regulations, or the amendment of ratios, standards and rates as well as the contents of tables attached to the regulation either to bring them in line with developments of environmental thought and sciences, or to simplify phrasing and render more accuracy to current texts.

Accordingly, a number of technical legislative and environmental specialized committees have meticulously studied the provisions of Law No. 4/1994 and its enforced executive regulation, and have surveyed the opinions of technical experts, specialized EEAA departments and representatives of the State Council and the Ministries of Interior, Foreign Affairs, Irrigation and Water Resources, Health and Population, Foreign Trade and Industry, Agriculture and Land Reclamation, Higher Education, Manpower and Emigration, Tourism, Electricity And Energy, Petroleum, Transportation, Investment, Civil Aviation and Ministry of State for Scientific Research as well as the Suez Canal Authority SCA and environmental officials in the different governorates. Efforts, studies and discussions made by such committees resulted in the development of proposals on the amendment of a number of the regulation articles, appendices and tables. Amendments were put into force by virtue of the Prime Minister Decree No. 1741/2005 published in the Official Gazette (Al Waqae' Al Masreya) on 29/10/2005.

In order to enforce and implement the provisions of Law No. 4/1994 on Environment Protection and Article 102 thereof stipulating that EEAA and RBO staff designated by a decree of the Minister of Justice in agreement with the Minister in charge of Environmental Affairs shall have the capacity of judicial impoundment officers vested with the power to effect seizures in proving crimes committed in violation of the provisions of the present Law and the decrees issued in implementation thereof, Thereupon, the Minister of Justice decrees no. 4315 and 8764 of 2005 were issued vesting a number of EEAA staff the capacity of judicial impoundment officers with the power to effect seizures in proving crimes committed in violation of the provisions of Law No. 4/1994 on Environment Protection. Such decrees have been of significant impact in minimizing adverse environmental violations threatening human health and life and have contributed to the compliance of industrial facilities to the standards and rates stipulated by Law as a result of the continuous control and monitoring of such facilities by judicial impoundment officers eventually leading to a noticeable improvement in the state of environmental as a whole.

Worth mentioning, sustainable development cannot be achieved merely by acceding environmental conventions or issuing binding environmental laws unless we have a group of judges believing in environmentally related issues and fully aware of the rules of general international law and sources of international law on environment and development, recognizing the different rights and commitments of states, the principles upon which they are based, international responsibility criteria and the relevant conflict resolution.

Accordingly, MSEA, in coordination with the Ministry of Justice, has targeted the preparation, qualification and training of a large number of the judiciary and public prosecution officers on environmental issues and problems. During 2006-2007, MSEA has organized many training courses at the National Center for Judicial Studies for more than 300 judges and members of the Public Prosecution through which they have acquired many experiences in different environmental sciences and international conventions in this field. Moreover, MSEA has coordinated with the Ministry of Justice to maximize the benefits gained from such training by establishing criminal circuits specialized in environmental cases, particularly in the most polluting industrial zones. A Minister of Justice Decree has been issued establishing and putting such circuits into force in order to speed up the conclusion, and warn about the significance and seriousness of environmental crimes and how to prevent them by law.

MSEA has also conducted similar training programs for Environment and River Police officers responsible for enforcing Environment Law 4/ 1994 provisions and providing them with the vehicles and equipment necessary for undertaking their mandated tasks.

Keeping in mind that one of Environmental Protection Fund (EPF) resources is the fines and compensations assessed or agreed upon with respect to damages to the environment, MSEA has, in support for this important resource and in coordination with the Ministry of Justice, established independent judicial records for environmental crimes and has decreed the transfer of the resulting revenues from such fines to EPF according to the law. MSEA has also taken immediate legal measures to file criminal lawsuits against vessels and establishments polluting Egyptian water environment including impoundment under custody, and the imposition of contractual compensations stipulated by law and international conventions. These measures had a significant impact on increasing EPF resources, which significantly contributes to the achievement of the key purposes for which EPF has been established and the removal of pollution impacts from vessels' accidents.

In view of MSEA's efforts to protect and secure a clean environment, and to disseminate the culture of environmental cleaning and protection within society, which has prevailed, spread and reverberated in constitutional provisions, HE President Hosni Mubarak has proposed to introduce a new article on environment protection into the constitution. In this respect MSEA has submitted a relevant extensive study following the soliciting of opinions of all experts. Eventually, Article 59 was added to the Egyptian Constitution stipulating that, "environment protection is a national duty; the Law regulates the necessary measures for maintaining a good environment".

In the light of the practical applications of Law 4/1994 on Environment Protection and its executive regulation, and the development of the environmental thought during the past years, a strong need for introducing necessary amendments to some texts of the law has emerged. Such amendments target the rectification of some shortages in law's environmental compliance provisions and augmenting environmental protection.

Consequently, the Minister of State for Environmental Affairs has issued a decree forming a committee for amending a number of the Environment Law provisions. The committee included representations from all MSEA sectors and agencies and its meetings were attended by representatives from all line ministries. The Committee dedicated itself to studying the Law provisions to be amended and solicited the opinions of all experts from all ministries. Efforts made by the Committee resulted in the development of proposals on amending a number of articles in the Law which were further referred to a legal committee of experts in legislative affairs.

Eventually, the committee produced a draft presidential decree including a draft amendment of some of the provisions of Environmental Law 4/1994 to be discussed in the 2007 parliamentary round. Most significant features and key objectives of such amendment included:

1. Rendering more accurate phrasing of definitions and terms provided in the law and adding new terms dictated by the practical reality.
2. Identifying objectives and principles on which the Law is based, in line with international and Arab environmental laws.
3. Organizing and controlling environmental consultancies and expert houses to ensure EIA soundness.
4. Requiring the submission of EIA studies prior to the implementation of any project and enforcing a penalty for violation.
5. Increasing MSEA and EEAA powers to the extent required for fulfilling their environmental mandates.
6. Increasing the effectiveness of administrative procedures against industrial facilities' violations of environmental standards and loads without affecting their employees.
7. Implementing international commitments stipulated in international agreements ratified by Egypt.
8. Achieving more comprehensive environment protection (for air, water and soil); confronting the phenomenon of climatic changes and protecting nature.
9. Implementing the integrated environmental management system for costal zones and natural resources in a way that would achieve sustainable development.
10. Ensuring that the texts of law are in line with the Egyptian Constitution provisions and principles and their amendments.
11. Increasing financial penalties for some environmental crimes and including new crimes for increasing the effectiveness of the Law particularly with respect to hazardous wastes.
12. Increasing the powers of Environment and River Police officers in environmental protection and crimes control.