

The determination of reasons of environmental pollution that require the impose of administrative sanctions in light of the Turkish Council of State decisions

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Abstract

Environmental administrative sanctions are a means of precautions aiming for the protection of the environment, reduction of environmental damages, nonrepetition of acts causing the damage of the environment. The mentioned actions of the administration shall be concluded in accordance with principles of rule of law, legality, legal certainty. It is important to a great extent to demonstrate the legality of the sanctions and measures when applied subsequently for judicial remedy, during which in the process of application of such sanctions, documentation of the contaminative activities and reveal of activities transparently with its justification had been realized. In the Environment Law numbered 2872, the procedures and principles are determined, which must be obeyed by the officer in charge assigned by the central or provincial organization of the Ministry or by the competent authority of state institutions and organizations authorized by the Ministry for the environmental supervision for detection of violations, which require the impose of administrative sanctions. It is important to consider some factors for the establishment of the process to be applied against any environmental violation by the administrative institutions that have duties and powers in the field of protection of the environment, such as the investigations to be carried out in order to clearly reveal the source of the polluting activity, the means that can be used in determining the violation, the conditions to regard real or legal persons to be responsible for polluting activity, which abolishes the hesitations relevant to the source of pollution. When the decisions of the Council of State are examined, in some of the decisions it is noteworthy that the problems related to the determination of the violation are mentioned and some of the sanctions established by the administration according to the procedure stated in the legislation are cancelled. In this study, a discussion will be made on the decisions of the Council of State and the reasons of the administration and an emphasis will be given to the problems in implementation and legislation. Recommendations will be put forward for the procedures and principles to be more specific in accordance with the principle of legality and to strengthen the lawfulness of the sanctions, which are followed in the areas where inspection may be carried out by the environmental inspection teams and where sea, land, air and other environmental damages may arise.

Keywords: *administrative sanctions, Turkish Council of State, environmental pollution, legality.*

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1. Introduction

Administrative sanction is the use of force which may be applied to real and legal persons by using public power. These powers are used by law enforcement authorities in order to protect public order, such as resilience, well-being and health; and are also used by regulatory bodies in terms of their regulatory and controlling powers. When analyzed in the context of environmental law, the administration also implements various sanctions against those who violate the rights of people to live in a healthy environment as a legally protected benefit.

The implementation of administrative sanctions by an organ with political decisions and mechanisms, such as the executive body, has always been a matter of debate in terms of ensuring the legal security of persons². Because administrative sanctions have some limitations on the fundamental rights and freedoms of individuals. These restrictions should be made in the light of some principles, first of all taking into account the principle of rule of law. For example, criteria such as recognition of the right to defense, the establishment of the reasoned principle of administrative sanction, the fulfillment of the principle of proportionality, the principle of legality, the public interest, the principle of certainty and impartiality are some of these principles³.

The justification of an administrative sanction is important in terms of determining the substantial act and its legal reason, which is one of the elements of action. In this way, the person that has been imposed sanction and the court may designate the legal nature of the action and check the legal correctness of the sanction against the violation⁴. The Council of State, in its' decisions, also lays an emphasize on the element of reason of an administrative action and considers that a sanction may be applied only if it is in conformity with lawful reasons⁵.

In administrative sanctions against environmental damages, the element of reason of the administrative action, generates various problems in the process of determining the actions that cause harm. In the implementation stage of sanctions, it is very important that the pollutant activities are proved by the administration and the reasoning is explained clearly in order to determine the legality of the sanction and measure for possible applications for judicial remedy. Some of the reasons for sanctions in the legislation are not evaluated in the same direction with the practitioners due to the interpretation differences of the administrative courts and therefore result in annulment of the sanction.

Addressing whether the obligations specified in the determination of violations in administrative fines are fulfilled in accordance with the

² Turgut Tan, *Administrative Sanctions and Assurances in the European Convention on Human Rights*, Law Congress 2004, Ankara Bar Association Publication/Human Rights 2, p. 100.

³ Hayrettin Kurt, *Assurances Against Administrative Sanctions*, „Gazi University Faculty of Law Review”, C. XVIII, Y. 2014, Sa. 1, p. 131-179.

⁴ Mustafa Karabulut, *Legal Regime of Administrative Sanctions*, Turhan Publication, Ankara, 2008, s. 48.

⁵ Tekin Akilloğlu, *Principle of Justification in Administrative Activities*, AİD, June 1982, C. 15, S. 3, 1982, pp. 8-9.

Environmental Law, whether the environmental audit teams are duly constituted, whether all necessary measures are taken for control, monitoring and communication, whether the measurements of the damages to the environment are fully analyzed is extremely important for the justification and proof of the sanction according to the law in question⁶.

In our study, it is aimed to introduce the methods of determination of environmental damages and to open the discussion of the causes of the administrative process arising from the implementation of these methods within the framework of the case law of the Council of State. In addition to the technical issues, such as gathering and analyzing of samples, there are also legal issues such as the obligation to provide information, keeping the reports duly, and the authority of the bodies. All these issues will be discussed in the light of the practice and decisions of the administrative courts and suggestions will be made in order to prevent any unlawfulness in terms of element of reason of the administrative action.

2. Damage to the subject of environmental administrative sanctions

The reason of administrative action is the financial cases or legal situations that require administrative action, force the administration to take action and mobilize the administration in this direction⁷. In administrative law, there can be no administrative proceedings without reason. The transaction that does not base on any reason means is arbitrary, and it renders the transaction illegal⁸.

The factor that drives the administration to take action may be a material case or a legal one. The administrative proceedings must be based on reasons or reasons that are true or lawful. There are some principles that can help us in determining what these reasons are, or that will reveal the outcome of the rule of law. For example, we can easily learn the principles such as the principle of legality, the principle of certainty, the principle of clarity, the necessity to provide justification and what are these reasons.

One of the legal protection tools that help protect the environment is to impose administrative sanctions against the acts that violate the environmental legislation. If the reason of this administrative sanction is clearly stated in the law, the reason stated in the law must have been fulfilled in order to comply with the law⁹. There are many violations in our legislation that requires sanctions for the protection, improvement and prevention of pollution. For example, Article 20 of the Environment Law states that those who cause emission that is contrary to the

⁶ Official Gazette D. 03.04.2007, S. 26482, Regulation about the Determination of Reasons of Environmental Pollution that Require the Impose of Administrative Sanctions in Environmental Law Act.

⁷ Şeref Gözübüyük – Turgut Tan: *Administrative Law, Cilt II, Administrative Jurisdiction*, Turhan Publication, Ankara 1999, p. 472.

⁸ Ramazan Çağlayan, *Administrative Law Lessons*, 5th edition, Adalet Yayınevi, Ankara, 2017, p. 367.

⁹ Gözübüyük-Tan, age., C. II, p. 473, Bahtiyar Akyılmaz-Murat Sezginer-Cemil Kaya, *Turkish Administrative Law*, 2nd edition, Ankara, 2011, p. 411.

standards, who do not have the necessary waste reception, pre-treatment, treatment or disposal facilities without the permission of the establishments which are subject to authorization, will be subjected to administrative fines for those who do not take precautions for air pollution. Likewise, within the Misdemeanor Law Article 41, it is also stated that penalty shall be imposed on the persons who dispose of domestic refuse and residues in places other than the places that are proper for collection and storage of such wastes, slaughter animals in places other than places that are allocated for this purpose, left unusable land or sea motor transport vehicles in streets or any other publicly owned places. If these acts do not occur with all their features, administrative sanctions will become unlawful. The main theme of our study is also important at this point. According to the decisions of the Council of State, there are differences in the interpretation of these acts between the administrative authorities and the court.

An individual may learn the cause of action of the acts of administrative sanctions that serve the purpose of environmental protection in three ways. Firstly, the cause of action might be explained explicitly in legislation. Hereby natural or legal persons can understand which acts require sanctions clearly and act accordingly. Secondly, the cause of action might be given with general statements that are not explicit in legislation. Thirdly, legislation might never have the cause of action within itself¹⁰. In the case of second and third situations; as it is a matter of usage of discretion of the authorities that are authorized for administrative sanctions, their discretion over whether a violation occurred may cause unlawful practices¹¹.

On the other hand, the act that is subject to administrative sanction must coincide with reality and be veridical. If the act is contrary to facts or if there has been a mistake during the process of describing the act, unlawfulness shall occur due to cause. For instance, in the case of disposal of hazardous wastes to soil; the cause of action cannot only be the act of disposal, it refers to the act of disposal of hazardous wastes. If there is another sanction for the acts of disposal of wastes not hazardous, imposition of this sanction would be better in terms of lawfulness. Stating that it is both requisite and inevitable to search for causes during the process of administrative sanctions, Council of State has evaluated the causes that are claimed by administration as contrary to facts and has decided rescission in most cases.

Owing to the importance of the cause of action of sanctions related with the environmental law, a regulation has been made with Official Gazette no. 26482 dated 03.04.2007. This Regulation defines the procedures for penalization and detection of violations of administrative fine in compliance with Environmental Law no. 2872 and also defines the procedures and principles related with method,

¹⁰ Gözübüyük Şeref - Tan Turgut: *Administrative Law*, Vol II, *Administrative Jurisdiction Law*, 2nd edition, Turhan Publication, Ankara 2006, s. 540, Alper Aydın, *As a Part of Administrative Jurisdiction: Nonexistence in Constitutional Jurisdiction*, TAAD, Yıl:5, Sayı:19 (Ekim 2014), p. 632-634.

¹¹ Fuad Azgur, *Gerekçeli Yeni Danıştay Kanunu*, Ankara, Ayyıldız Matbaası, 1965, s. 56.

distribution and supervision of the receipts that are used during the imposition of penalty. It is an important regulation that can serve the lawfulness of cause of action to prevent rescissions of administrative fines due to having no legal basis.

3. Principles that reveal the importance of the determination of harmful activities in the environment

The administrative procedures are the public interest-based transactions that arise with the unilateral declaration of public force¹². In some matters concerning administrative law, the legal order gives the administration the opportunity to appreciate a solution for some other issues while giving responsibilities in case certain conditions and situations occur¹³.

With the fact that the act which is connected to any penal sanction is subject to the clearly violation of the law, it is not enough to make the regulations regarding the crime and punishments in the form of law in terms of the form, and they should be suitable to realize the specific purpose in terms of content. In this respect, the text of the law should be written in such a way as to allow individuals to foresee which legal action or result is connected to a concrete act and a certain clarity and certainty. For this reason, in a particular certainty, the law should know which legal sanctions are connected to individuals and the consequences of actions should be predicted. This is a precondition of the principle of the rule of law.

Despite administration's sanctions, coercive and suppressive sanctions against causing actions of environmental pollution are solutions in terms of future violations, we must not forget that preventive measures are the most important ones. Because, polluted environment is very difficult to restore to previous clean environment. Maximization the preventive feature of legal regulations depends on several basic principles.

Legality principle one of which has positive contribution on deterrence is a principle in terms of administrative sanctions¹⁴. In contrast with the other branches of law, legality principle has a big power and importance for administrative law. Effective protection of the interest that is tried to preserve by legislators while enacting laws bases on enabling clear, distinct, explicit, definite and understandable legislations especially in terms of criminal law. Environmental Law, Misdemeanor Law, Construction Zoning Law and all the other bills/statutes serving to protect environment should be enacted with respect to these precision. A penalty related to environmental law should direct actions and processes which are already stated by legislation and accepted as administrative infringement. Depending on the variety of needs, the causes of pollution become varied in such developed world system. In these conditions, administrative authorities are very

¹² Turan Yıldırım, Melikşah Yasin, Nur Kaman, Halit Eyüp Özdemir, Gül Üstün, Özge Okay Tekinsoy, *Administrative Law*, İstanbul: On İki Levha Publication, 2013, p. 546.

¹³ Tahsin Bekir Balta, *Introduction to Administrative Law*, TODAİE Yay. no:17, 1970, p. 84.

¹⁴ Mustafa Karabulut, *Legal Regime of Administrative Sanctions*, Turhan Publication, Ankara, 2008, p. 113.

likely to use their discretion about protection arbitrarily. To minimize this tendency to arbitrary discretion of administration, legislator authority should adapt legal regulations about protecting environment to meet the need.

The second important principle about the regulations that will be legally reason element is to include clear expressions which means legal certainty¹⁵. The Constitutional Court of Turkey described legal certainty in one of the decisions. According to this description, legal certainty is one of the most important principles of rule of law that is regulated by the article 2 of Turkish Constitution. It has also broader meaning in contrast with statutory certainty. Secondary principles of legal certainty are accessibility, knowability and predictability.

By the other decisions about rule of law, the Court described legal certainty as a "legal qualification factor". Especially after 2010, the Court added some other qualities to this description: objectivity, including preventive actions against arbitrary actions, make possible to plan future and a distinguished level of certainty. Thus, the inclusionary feature of legal certainty principle arises¹⁶.

The legislation regulating the duties and powers of the administration includes the ambiguous concepts such as "public interest", "public trust", "national security", "public order", "public morality", "public health", "requirements of service", "due to the need", "... which are not performed properly", etc. In such cases, the existence of discretionary power or non-discretionary power varies according to the meaning that the relevant ambiguous concept gains. Therefore, ensuring that the regulations are precise and clear will enhance the trust in law.

As mentioned before, it is inevitable for the administration to exercise its discretionary power while performing public services. However, the lawful use of this power is important for the state of law¹⁷. Therefore, another principle that indicates the significance of the causal factor is the principle that an act should have a justification. This principle has the aspects facing both the substantive law and procedural law. Depending on the possibility that the causal factor is a tangible case or a legal situation, the administration has to explain the legal justification, in other words, the legal grounds that formed the basis for its sanction. This also reveals how an issue submitted to the court is evaluated by the administration. The principle of justification has a close relationship with the causal factor of the administrative act.

The principle of justification is described in the "Resolution on the Protection of the Individual in Relation to the Acts of Administrative Authorities" numbered 31 issued by the Committee of Ministers of the Council of Europe by stating that "Where an administrative act is of such nature as to adversely to affect his rights, liberties or interests, the person concerned is informed of the reasons on

¹⁵ Yücel Oğurlu, *Judicial Protection Against to Administrative Sanctions*, Seçkin Publication, Ankara 2001, p. 157.

¹⁶ Turkish Constitutional Court, Decision, E. 2014\100, K. 2015\6, K Tarihi: 14.01.2015, Official Gazette, Date and No: 07.04.2015-29319.

¹⁷ Sinan Seçkin, Gül Üstün, *The discretionary power in administrative acts and the principle of justification*, Marmara University Law Faculty, „Law Studies Journal” („Hukuk Araştırmaları Dergisi”), Special Issue: For honor of Mehmet Akif Aydın, V. 21, N. 2, İstanbul, 2015, p. 524.

which it is based. This is done either by stating the reasons in the act, or by communicating them, at his request, to the person concerned in writing within a reasonable time."¹⁸ The principle of justification has positive implications for the judicial body as well. Thanks to the principle of justification, the judicial review of the administrative act in terms of the causal factor can be performed easily by the judicial body.¹⁹

4. The determination of the reasons of environmental sanctions in the light of the decisions of the Council of State

This subject relates to the implementation of environmental administrative sanctions. Article 25 of the Environmental Law states that the competent supervisory officials should prepare a written record with respect to acts requiring the application of administrative sanctions for the purpose of environmental protection. After the submission of this written records to the authority, which is authorized to issue administrative sanctions, and to which the competent supervisory officials are affiliated, the authority delivers the necessary sanction decision by evaluating the written record. Furthermore, for administrative fines to be imposed in accordance with this Law, the procedures for the determination of violations and the imposition of fines are also determined by the Regulation. Article 10 of the relevant Regulation which is entitled "Determination of Violation" sets forth the procedure for determination of the violation. In this scope, the necessity of the below items is regulated;

- *availability of photographs, aerial photographs, camera, satellite images and other technical devices,*
- *if the information and documents which are demanded by the administration and must be submitted by the performer of the activity are not submitted or partially submitted or are partially submitted, statement of this fact in the Environmental Audit Record.*
- *duly collecting and storing samples in sufficient quantity if taking samples is necessary,*
- *consulting an expert when necessary to identify destruction of biological diversity,*

When these implementation principles are violated, the administrative sanction is considered unlawful, sometimes in terms of form and sometimes in terms of causal factor.

It is important to look at the various concepts related to the subject, before proceeding to the approach of the Council of State regarding the determination of causing environmental pollution. To make clear the meanings attributed to the

¹⁸ http://www.coe.int/t/dghl/standardsetting/cdcj/Administrative%20law/Documents_en.asp, consulted on 1.10.2018.

¹⁹ Murat Sezginer, *The External Appearance of Administrative Act in Procedure Laws*, International Symposium on the Preparation of Administrative Procedure Law, Ankara: Prime Ministry Press, 1998, p. 219.

expressions such as "environmental protection", "environmental pollution", "damaging the environment", "delivering the hazardous wastes indirectly to the receptor environment" will make a positive contribution to the understanding of the determination of violations which is the main subject of our study. Namely, the fact that the *dumping* of a harmful substance into unsuitable places causes administrative sanction without requiring a damage analysis indicates that the causal factor of the act exists.

In this context, for example, the Council of State provides a broad interpretation with the following statement in one of his decisions: "... *considering the duty of the State to protect the environmental health in order to protect and maintain people's right to live in a balanced and healthy environment, and to prevent environment pollution; it is concluded that not only the pollution caused by the disposal of the substances that will harm the environment and human health, but also the pollution that destroys the balance of the natural environment in which human life is maintained and causes undesired results arising from all kinds of human activity is also intended to be prevented*"²⁰. This decision which does not require physical realization of a pollutant activity and states that it is legally possible to punish an activity that disrupts the balance of the environment according to Environmental Law indicates that the Council of State attaches importance to preventive measures with regard to the environment.

Causing environmental violations actually appears as environmental pollution. In this context, the definition of environmental pollution and the approach of the Council of State are also important. The reason for the above is that the dimensions of meaning attributed to the concept of environmental pollution, directly and indirectly, affect the purpose of environmental protection. Compared with local courts, the Council of State emphasizes the necessity of evaluation of all activities that cause environmental degradation by interpreting the concept of environmental pollution more broadly. In the international texts of great importance; the concept of environmental pollution is defined as activities that impair the environment and cause harmful consequences in terms of endangering human health and damaging ecosystems.²¹ The environmental pollution in the Turkish Environmental is expressed as any negative impact that occurs in the environment, and may disrupt the health of living beings, and impair environmental values and ecological balance.

We can understand from some of the decisions of the Council of State that it interprets the pollution in a broader sense than the local courts. For example, it reversed the decision of a local court that annulled the administrative act on the grounds that "small flyers do not qualify as harmful substances discarded into the environment as a result of any action, therefore, the imposition of the fine has no compliance with the law."²² In this decision, the Council of State held that the

²⁰ Council of State, 6th Chamber, Docket 1998\1948, Decision 1999\2055, Decision Date 20.04.1999.

²¹ For detailed information see Nükhet Yılmaz Turgut, *Environmental Policy and Law*, İmaj Publishing, Ankara, 2009, p. 240.

²² Council of State 6th Chamber, Docket 1998\1948, Decision 1999\2055, Decision Date: 20.04.1999.

sanction imposed is sound on the grounds that the wastes, which are left to the environment and not disposed of, impair the balance of the environment.

Another issue that is important in the determination of the activities that cause environmental pollution is the use of legitimate evidence in the process of establishment of the act. The procedural law can sometimes affect the validity of substantial occurrences. This point was emphasized in another decision of the Council of State that we examined in the scope of our study. A number of determination activities of the administration, which do not comply with the procedure, breaks the causal relation between pollution and those who harm. The fine was imposed in accordance with the Law no. 2872 on the grounds that it has been determined that the liquid fuel analysis of oil samples in the fuel analysis laboratory did not provide the limit values, however, the Council of state does not consider the imposition of fine lawful on the grounds that the fuel in question was received from the refinery as officially sealed by considering that it is in accordance with the standards²³. Thus, the Council of State stipulated that the causal factor should have a legal basis as well as substantial actuality. The consequence that is reached through this decision and similar ones, is that the Council of State requires that the cause element of the administrative sanction act is formed and completed in all aspects.

From another decision of the Council of State, which we will examine below, it is understood that environmental pollution should be assessed as a whole before and after the scene investigations. In the decision, by stating that; *"In the case; when the scene investigation report which is prepared by the teams of the Environmental Protection and Control Department, photos and video records are examined, it was found that the ship was identified through photographs and camera records of a black waste discharge, which is understood to be an oil-derivative. It was observed in the video images taken that the waste material was concentrated around the ship. In the video images recorded on the deck, the remains of the items in the form of black soot was clearly visible on the deck. The values determined in the analysis report issued after the examination of the sample taken from the surface of the sea during the determination exceed the limit values determined in the Water Pollution Control Regulation."*, it is concluded that the action is evidenced. Although, the local court, in its decision, annulled the fine imposed with the justification that; *"it is not understood clearly whether the pollution originates from the ship or elsewhere, it is understood from the conversations of inspectors between each other that they also have doubts about the source of pollution. As such, it is impossible to conclude that the image records reveal that the pollution is arising from the ship in a manner which is substantial and free from suspicion, despite the fact that the samples must be taken from the pollutant, they were not taken from the pollutant. Other information and documents in the file are not capable of putting forward all aspects of the incident subject to environmental pollution in a manner that is free from doubt"*, the Council of State

²³ Council of State 6th Chamber, Docket 2003\602, Decision 2004\3869, Decision Date: 16.06.2004.

has stated that the examination should be carried out with technological devices in a multidimensional way and further stated that the fine is lawful²⁴.

The Council of State, while reaching to this conclusion, has decided that the following issues determined in the following Laws and Regulations should also be taken into consideration:

- *in determination of the violation, the photograph, aerial photography, camera, satellite images and other technical devices can be used,*
- *in cases where it is not possible to do so due to the impossibilities such as the fact that the persons concerned left the spot, that the case has a sui generis character, the Environmental Audit Record or Determination Record is sufficient to determine the violation,*
- *Environmental inspection teams of the institutions/organizations authorized to impose administrative fines who are at the spot of pollution should make the determination of the polluted area and pollutant with sufficient amount of photographs, films, and videos and receive enough samples from the polluted area and pollutant,*

In examination of the causal factor of the environmental administrative sanctions, the Council of State, in another decision which puts forward the importance of the procedure in obtaining the evidence, deemed it necessary to notify the analysis report to the plaintiff company to allow it to use the right to appeal against the results of the analysis, and decided that the act is not in compliance with the law that is made without observing the aforementioned issues.²⁵.

The principle of preciseness, which is among the main principles affecting the causal factor, is mentioned above. If it is not stated which sub-paragraph or paragraph of the relevant article of the Law is taken as a basis in the established administrative act, the principle of "preciseness" which is one of the fundamental principles of the state of law is violated. The Council of State acts in a much more sensitive way than the local courts in this regard and it takes the requirements such as preciseness, clarity, and justification into consideration. In other words, the fines, which should be imposed for environmental violations set out in the laws and regulations, should be determined separately for each environmental pollution violation by expressing different actions that cause environmental pollution.²⁶ In another similar decision, due to the fact that the determination has not been made properly and sufficient samples have not been taken from the polluted area and the pollutant, it considers that the administrative act imposing fine is not in compliance with the legislation²⁷.

²⁴ Council of State 14th Chamber, Docket 2016/4401 Decision 2017/465, Date of Decision 02.02.2017.

²⁵ Council of State 14th Chamber, Docket 2011/10825, Decision 2012/8604, Date of Decision: 22.11.2012.

²⁶ Council of State 14th Chamber, Docket: 2011-12668, Decision 2012-5977, Decision Date: 21.09.2012.

²⁷ Council of State 6th Chamber, Docket: 2001/1795, Decision 2003/1486, Decision Date: 11.03.2003.

5. Conclusion

In order to punish the environment-damaging activities by the administration, the legal or material cause of the penalty should be legal. In order to ensure that the sanctions imposed by the administration on the purpose of protecting the environment are not arbitrary, principles such as principle of the state of law, legality, and as a result of these, certainty, clarity and predictability have great importance.

Administrative authorities with duties and responsibilities to ensure that individuals live in a healthy and balanced environment are obliged to comply with the rules set out in the legislation in the determination of activities that are considered as environmental pollution. The determination of the activities that require sanction and the administrative sanctions that are established based on this determination are subject to the law compliance audit.

Council of State's, which is the highest court in administrative cases in Turkey, approach on the topic contribute decisions taken by practitioners to be more legal and it also prevents the violations of fundamental rights and freedoms. What is noteworthy in the investigated decisions is that there is a difference in approaches between the local court and the Council of State in the sanction decisions taken by the administration. Namely; in spite of the lower courts' narrow interpretation of the activities that cause environmental pollution, the Council of State considers the care requirement in the protection of the environment more broadly. On the other hand, the decisions of the Council of State shows that on the determination of the activities of the pollutants that lead to the administrative sanctions are treated with precision to comply with the procedural provisions.

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