The legal framework for mining agencies under law N°. 25- 12 governing mining activities in Algeria

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Abstract:

The mining sector in Algeria has undergone profound changes, particularly following economic reforms and its opening to competition. This explains the content of the laws governing it, including Law No. 14-05, which contains several provisions, notably the creation of specialized bodies for the regulation of mining activity including two mining agencies. Its legal status gave it a distinctive character, making it a commercially oriented entity. However, Law No. 14-05, which included the mining law, was repealed by Law No. 25-12, which regulates mining activities. Therefore, it is necessary to examine the legal status of these regulatory bodies, especially since mining activities are among the dynamic strategic sectors, constantly open to global markets and foreign investment.

Key words: *Independent Administrative Authorities; Commercial Regulatory Authorities; Mining sector; Economic Regulation; Legal Nature; Algerian Law.*

Introduction:

Algeria's vast and under-exploited mining resources represent a strategic resource frontier that, to date, has contributed to only a mere 1% to the country's GDP despite the vast reserves of iron, phosphates and other minerals found. Following the liberalization of the mining sector in favor of private initiative, the Algerian legislator, under the 2001 Mining Law (Law No.01-10, 2001), established two mining agencies: the National Agency for Mining Assets and the National Agency for Geology and Mining Control. These agencies were initially independent administrative authorities tasked with regulating the mining sector, thus subjecting them to the same legal framework as other independent administrative authorities in other sectors. However, the legislator later reclassified them as two national agencies with legal personality and financial autonomy under the 2014 Mining Law (Law No. 14-05 of 16 April 2014).

This reclassification was subsequently reversed under the new Mining Law No. 25-12 (Law No.25-12), explicitly reclassifying them as two independent administrative authorities, particularly with regard to legal personality, financial independence and the administrative character conferred upon them. Consequently, the question arises of determining the new legal status of these two mining agencies.

In this context, it is appropriate to examine the legal classification of the regulatory authority in the mining sector, particularly regarding its actual legal status and the role assigned to it in regulating mining activities.

To answer this problematic, it is necessary to clarify the extent to which the legal status of the regulatory authority's activity in the mining sector has been strengthened by exposure to the provisions relating to its legal nature (First Topic), and to highlight the extent of the Independence of the two Mining Agencies under No. 25-12 (Second Topic).

THE FIRST TOPIC:

The Legal Nature of Mining Agencies under Law No. 25-12

After the promulgation of Mining Law No. 14-05, the legislator adopted a different approach by explicitly attributing a commercial character to the two mining agencies in the text of Article 38 (Law No. 14-05), unlike the previous Mining Law No. 01-10, which explicitly conferred an administrative character upon them by assimilating them to two independent administrative authorities, as stipulated in its Articles 44 and 45 (Law No. 01-10), which was reaffirmed in the new Mining Law No. 25-12.

Given that the two agencies -the National Mining Activities Agency and the Geological Survey Agency of Algeria- are considered as independent administrative authority again, the legislator removed their commercial character, giving them instead an administrative character again (First requirement), as well as legal personality and financial independence (Second requirement).

First Requirement: Mining Agencies: Administrative Authority again Under Law No. 25-12

The real reason for the creation of these two mining agencies is the regulation of the mining sector, and there is no doubt that this regulatory role can only be entrusted to them if they have the legal means to guarantee its implementation, the first of which is authority, a fundamental element of mining sector regulation. However, characterizing an organization as "authoritarian" must be based on a set of criteria demonstrating that it is considered an authority with decision-making power (First Section), but also because these decisions fell within the competence of the executive power, and most of them have an administrative character, either explicitly by the

legislator, or this can be deduced from the manifestations which indicate it (second Section).

First Section: The Mining Agencies Authoritarian Character

Article 39 of Law No. 25-12 reclassifies The National Agency for Mining Activities and the Geological Survey Agency of Algeria as "two independent administrative authorities with legal personality and financial autonomy". This reverses the commercial qualification of Article 38 of Law No. 14-05 and restores, almost word-for-word, the formula used in Articles 44 and 45 of Law No. 01-10. From the standpoint of administrative-Law doctrine (Zouaïmia, 2005, p. 22), the reclassification is welcome: the missions entrusted to the two agencies — management of mining assets, supervision of titleholders, geological inventory, accreditation of mining experts — are difficult to reconcile with a commercial qualification, since they involve the exercise of prerogatives of public power for the benefit of the public interest (Labad, 2010, p.271).

Indeed, like certain other authorities, classifying the two mining agencies and other regulatory bodies as authorities is an appropriate designation, as they possess real powers that reflect the new approach to regulating the economic and financial sector.

Therefore, the authority granted to these bodies is defined according to the functional standard. It is an authority in the sense of giving these bodies the ability to make decisions that enable them to carry out their various functions with full effectiveness and credibility (Hanafi, 2000, p. 13).

A significant departure from the 2014 regime concerns quarrying permits. Whereas Law No. 14-05 vested ANAM with the power to issue mining exploration and exploitation permits pursuant to Article 63 of the Law No. 14-05, thus, Article 61 of Law No. 25-12 transfers the issuance of quarrying permits to the territorially competent wali, with ANAM reduced to a reasoned-opinion function on the file submitted by the wilaya. This shift weakens the agency’s authoritative character in respect of quarries, while retaining decisional power over mining titles proper. It introduces a bifurcation between mining and quarrying that has no precedent in the prior statutes and that the literature has not yet analysed.

On the other hand, the Algerian legislator, like other economic regulatory authorities, granted mining agencies a set of powers which originally fell under the prerogative of public authorities, such as the supervisory authority.

In this specific case, the legislator did not grant mining agencies the power to make decisions, considering them merely as advisory bodies.

However, on the other hand, the Algerian legislator, like other economic regulatory authorities, granted mining agencies a set of powers which originally fell under the prerogative of public authorities, such as the supervisory authority.

Regarding the authority to investigate and monitor, the legislator granted the National Mining Activities Agency a set of supervisory tasks, including those stipulated in Article 50 of Law 25-12.

Monitoring and review of statements made by the owner of the document and mining license regarding mining royalties imposed for the exploitation of mineral or fossil materials, and Monitoring and tracking the use of supplies in order to replenish tanks.

Second Section: The Mining Agencies Administrative Character

Since the legislator has not unified the legal system for regulatory authorities, each authority has at least one distinctive characteristic. This characteristic may appear only in its legal nature or in its legal system as a whole. In the case of the two mining agencies, this distinctiveness appears in their legal nature, specifically in their administrative character.

Indeed, contrary to the provisions of Mining Law No. 14-05, which gave them a commercial character, the new Mining Law of 2025 described them again as two independent administrative authorities. In this regard,

With reference to the provisions of the Mining Law, the administrative nature of the two mining agencies is embodied in two aspects, first: a material point of view, the missions of these two bodies are of an administrative nature individual administrative decision of a binding nature ((Labad, 2010). Second: a litigation point of view, the disputes generated by the actions of these two agencies are before the administrative courts (Zouaïmia, 2005, p.25). It is in the light of the two major theories of administrative law (public-service theory and public-authority-prerogatives theory) that the two agencies under consideration have a public interest mission which is implemented by exercising public power prerogatives.

Thus, highlighting the administrative nature of independent administrative authorities requires drawing upon one of the theories of administrative law: the public service theory and prerogatives public authority theory. Applying these two theories to the two agencies in question reveals that they are authorities that enjoy the privileges of public authority and exercise them within the framework of their public service missions.

According to the provisions of the mining act, the National Mining Activities Agency is responsible for the management and maintenance of mining assets, this is a form of exercising the prerogative of public authority. As for the Geological Survey Agency of Algeria, it carries out permanent activities of public interest, exercising the prerogative of public authority, specifically concerning the management of geological installations, indicated in the text of article 49 of law 25-12, , these facilities include geological works, a mineral inventory and the legal deposit of geological information.

Despite these two agencies are excluded from the rules applicable to the administration, these authorities still possess the privileges of public authority, as the

legislator has granted them the power to make individual decisions by issuing various licenses to conduct their activities .

However, the administrative decision-making process is not the only way to highlight the administrative nature of the two mining agencies. Beyond decisions, any administrative authority can use its prerogatives to enter into administrative contracts based on material standard. Indeed, it uses the prerogatives of public authority to perform the functions of a public service. If administrative authorities are considered necessary, then it must be recognized that they possess the powers necessary to carry out their functions. Ultimately, the objective of organizing these authorities is to achieve the public interest (Labad, 2010).

Table 1. Evolution of the legal status of the two mining agencies (2001–2025)

Dimension	Law No. 01-10 (2001)	Law No. 14-05 (2014)	Law No. 25-12 (2025)
Legal qualification	Independent administrative authorities (Arts. 44–45)	Commercial entities subject to commercial law (Art. 38)	Independent administrative authorities (Art. 39)
Legal personality	Yes	Yes	Yes
Financial autonomy	Affirmed	Affirmed	Affirmed (Art. 39)
Power to issue mining permits	Yes (ANAM)	Yes (ANAM, Art. 63)	Only advisory; permits issued by wali for quarries (Art. 61)
Accounting regime	Public accounting (implied)	Commercial accounting	Commercial accounting (Art. 44)
Staff regime	Civil service rules	Labour law (Law 90-11)	Labour law (Law 90-11, Art. 40)
Board composition	Chair + members (presidential decree)	Chair + 3 (ASGA) / 4 (ANAM) members (presidential decree)	Chair + 4 members = 5 total per agency (decree, on Minister proposal) (Art. 41)
Internal organization	By regulation	By regulation	By regulation (Art. 43)

Source: authors' elaboration from Laws No. 01-10, 14-05 and 25-12.

Second Requirement: The Specific Legal Nature of the Two Mining Agencies

The distinctiveness of the two mining agencies is evident in their administrative character. While the latter was granted to them by an explicit legal text, and consequently they are subject to the rules of public law, in certain aspects they are subject to the rules of private law by a legal text, despite the legislator explicitly stating that they are an administrative authority. It is understood from this that the administrative character granted to the two agencies does not apply to everything related to their legal system, which is specifically evident in their accounting and financial system on the one hand (First Section), and the legal system of their employees (Second Section) on the other hand.

First Section: The Accounting and Financial System of the Two Agencies

Designating an entity as an administrative authority primarily means subjecting it to public law and the rules of administrative law; in other words, it operates within a single legal system. An entity's accounting and financial system is one component of this system. It reveals the nature of the law that governs it and, consequently, the applicable accounting rules. If it is subject to public law, the rules of public accounting apply; if it is subject to private law, its accounting is kept according to commercial principles. However, some entities classified as administrative are, by law, subject to the provisions of private law, as is the case for certain independent administrative authorities, such as the two mining agencies.

Based on these facts, there is something unusual about the accounts of administrative bodies being governed by commercial-law rules. On the one hand, the majority of mining resources are managed by mining bodies through the rules pertaining to their administrative activities (such as the rules governing applications, renewals, royalties and transfer fees). On the other hand, the resources corresponding to the mining assets allocated to the Mining Assets Fund are generated by bodies that manage the State grants exploitation and exploration subsidies, (Law No. 25-12.A.44). In these cases, the resources of these agencies have an exceptional and supplementary nature. Therefore, it is more appropriate to make the accounts of such agencies the subject of commercial accounting rules rather than of public accounting rules. Subjection of their accounts to private law is merely a functional matter and does not amount to a re-commercialization of the nature and hybrid public/and private aspects of these bodies that are treated in the literature as hybrid regulators (Zouaïmia, 2010, p.84).

Second Section: The Legal System for Users of the Two Agencies

The employment relationship at the level of public administrations is characterized by a regulatory and statutory nature, subject to the Public Service Law regulated by Order No. 06-03 (Order No. 06-03), where employees are considered public employees, while the relationship is contractual and agreement-based, subject to Law No. 90-11 regulating individual employment relationships (Law No. 90-11 of

21 April 1990), at the level of public institutions of an industrial and commercial nature, where employees are workers and not employees.

In this regard, Article 40 of Law No. 25-12 places the staff of the two agencies outside the civil service. They are recruited under Law No. 90-11 on individual employment relationships and therefore have the legal status of workers rather than civil servants. The aim is operational flexibility: regulatory agencies require specialized technical and managerial skills that the civil-service regime, with its rigid pay scales and recruitment procedures, struggles to attract (Boujemline, 2015, p.225). The trade-off, however, is that this regime weakens the statutory protections that the civil-service framework affords against political pressure on individual employees, a point that the comparative literature flags as a non-trivial dimension of de facto independence (Maggetti, 2007).

Regarding the subjection of the two mining agencies to private law, it is important to clarify that this does not mean conferring a commercial character upon their legal system. Indeed, it is insufficient to classify an entity (legal person) as commercial solely on the basis of its subjection to labor law, which only concerns certain aspects that do not affect the administrative character explicitly conferred upon the two agencies by the legislation. Issues with real impact fall under public service law, particularly concerning sanctions. The application of commercial accounting rules is an inevitable consequence of certain circumstances and reasons (Lakehal, 2021, p.129).

THE SECOND TOPIC

The Extent of the Independence of the two Mining Agencies

The concept of independence within these authorities has its own unique and distinctive character (ZOUAÏMIA, 2005, p.25). Therefore, the issue of the independence of these bodies was the subject of extensive jurisprudential debate, as several studies were conducted on it.

In fact, the independence explicitly granted to the two mining agencies under legal text 25-12, specifically within Article 39, which stipulated that the two mining agencies are two independent administrative authorities, will be studied based on legal studies on the independence of authorities in general and its implementing texts in particular, and on the provisions of Law No. 25-12. To know the extent of the independence of these two agencies, it is necessary to analyze the issues related to independence, both from the organic side (First Requirement) and the functional side (Second Requirement).

First Requirement: Organic Independence: Manifestations and Limits

Algerian jurisprudence aligns with French jurisprudence regarding the determination of the independence of administrative authorities from an organic point

of view, since it relies on the same elements as those recognized in comparative law to measure the degree of this independence, which is in fact derived or inferred from the legal texts establishing these bodies and governing their independence (Rachid, 2006, p.15). On this basis, by referring to Law No. 25-12, the extent of the independence of the two agencies from the organic side can be determined by highlighting the elements that it enshrines on the one hand (First Section), and those that it limits on the other hand (Second Section).

First Section: The Organic Independence Manifestations

The manifestations of the enshrining of the two agencies' independence from an organizational perspective are demonstrated by examining their collective structure (multiple members) on the one hand, and on the other hand, the legislator's consecration to the principle of incompatibility.

Regarding Membership Composition: The composition of independent administrative authorities is characterized by its collective and pluralistic nature. This characteristic is considered essential, as it guarantees the diversity of viewpoints and opinions among its members, thus enabling the search for alternative solutions. It also ensures collective deliberation on sensitive topics or complex issues, thus guaranteeing objectivity and seriousness through collective consultation.

As for organic features of independence, Article 41 of Law No. 25-12 provides that the two agencies shall be managed by a collegiate body consisting of five (5) members, including a Chairperson. Such a body shall be appointed by decree on the proposal of the Minister in charge of mines.

Indeed, the first organic feature of independence is a collegial composition (Decoopman, 2002), i.e. the characteristic of an organizational body which, in order to take decisions, shall consider several viewpoints. It is precisely this view that has been taken when setting up the new bodies for managing the two agencies.

Thus, this provision differs from that stipulated by Mining Law No. 14-05, according to which the management committee of the Algerian Geological Survey Agency consisted of a chairperson and three (3) members, called directors, appointed by presidential decree, while that of the National Mining Activities Agency consisted of a chairperson and four (4) members, also called directors, appointed by presidential decree. The management committee is authorized to act on behalf of the mining agency concerned in carrying out the missions entrusted to it by law, and its chairperson presides over its meetings.

However, the issue of multiple members is in reality only a preliminary guarantee of the independence of the two agencies, as the legislator did not set any criteria for selecting members.

According to consecration of incompatibility Regime: While the multiplicity of member’s aims to guarantee independence from the executive branch, the system of incompatibility guarantees independence from other actors in the sector and constitutes

a manifestation of the principle of neutrality. Incompatibility can be absolute or partial. It is absolute if the status or functions of members are incompatible with the exercise of any other functions, public or private, and also prohibit the direct or indirect holding of shares in any institution, whether or not it belongs to the sector.

The incompatibility system of Mining Law No. 25-12 refers to the rules that prohibit engaging in mining activity with certain other functions or professions in order to ensure transparency and avoid conflicts of interest.

The article 47 clearly demonstrates that the legislator established a partial incompatibility system for members of the two agencies by not preventing them from engaging in other activities or having interests in institutions outside the mining sector. Thus, the legislator established this incompatibility in the founding text of the both agencies.

It should be noted that the consecration of partial incompatibility is not limited to the two mining agencies, but we find it enshrined, in a different form, in the founding texts of other regulatory authorities.

Two years incompatibility and prohibition regime for the chair of the boards of the two agencies after the end of their term of office. This incompatibility and prohibition regime is partial as it only concerns the activities in the field of mining, and in particular in the sectors of mining and quarrying, as a liberal profession or in a consulting capacity. It must be read in conjunction with the general regime of incompatibilities and special obligations set out in Order No. 07-01 **(**Order No. 07-01**)** relating to incompatibilities and special obligations attached to certain posts and professions.

Second Section: The Organic Independence Limits

Many elements are considered essential, from organic perspective, to guarantee the independence of regulatory authorities. However, this is not the case for the two mining agencies; on the contrary, it limits and restricts their independence from the executive branch. This is particularly evident with regard to the status of their members, their method of appointment.

Regarding the lack of precision regarding the members' quality: While recognizing the principle of collective regulatory bodies (plural membership) constitutes a fundamental guarantee of their organic independence, this guarantee can only have a real effect if this collective body allows for pluralistic representation of its members by involving the maximum number of different and active stakeholders in the sector in the composition of these authorities (Decoopman, (Ed.). 2002).

To confirm this, there are no statutory requirements as to the qualifications of the board members. Thus, no minimum qualifications are stipulated; nor are any specific knowledge or skills required in such fields as mining geology, mining engineering or economics. Such an absence of requirements as to the qualifications of members of the boards of agencies in technical sectors such as that of the mining and quarrying of minerals and in a context of repositioning such sectors opened up to

foreign investors is particularly regrettable. While such an absence of requirements is not particular to the two mining agencies here under review e.g. Postal and Telecommunications Authority (Law No. 18-04 of 10 May 2018**)**, Electricity and Gas Regulatory Commission (Law No. 02-01 of 5 February 2002), it is, however, even more striking in this particular sector of the economy.

The appointment method does not serve the two agencies independence: The Algerian legislator, regarding the appointment of members of the two mining agencies, adopted a method that cannot guarantee their independence, thus excluding the advantages of appointment mentioned above.

Members of both the ASGA and the ANAM are appointed by decree of the President of the Republic. In Algeria, all regulatory bodies are managed on an organic basis and members of such bodies are appointed by the executive, whereas other bodies are managed on an institutional basis and their members are appointed by Parliament and/or other government bodies. The practice of appointment to the various regulatory bodies therefore differs from that of the Audiovisual Regulatory Authority and the Committee for Regulating and Monitoring Stock Exchange Operations (Naar, 2025). In the latter two bodies, members are nominated by several different bodies of government, whereas for the mining agencies, the Minister in charge of mines proposes the appointment of members by decree to the President of the Republic (Gilardi, 2008).

The single proposing authority (the Minister in charge of mines) compounds the concentration of executive control of the two agencies. This is in contrast to most of the other Algeria sector specific and non-sector specific bodies of oversight, where there are plural proposing bodies. In the case of the Stock Exchange Committee for example, the proposal for membership is made by the Ministers of Justice, Finance and of Higher Education and of Scientific Research respectively. The single proposing minister for the two agencies of oversight of the mining and quarrying sector of activity therefore makes the members of the board of management of the agencies dependent on the very ministry whose decisions are intended to be kept separate from and from being under the thumb of the two agencies of oversight.

Finally, regarding organic perspective independence of the two mining agencies, it's concluded that it is not a relative independence, but rather an almost non-existent independence compared to some other regulatory authorities.

Second Requirement: Functional Independence: Manifestations and Limits

Functional independence (during the performance of tasks) means that the body or agency is free from all forms of governmental dependence, whether financial or administrative. Furthermore, the decisions taken by the body in performance of its functions cannot be canceled, amended, or replaced by another higher authority, which means that it is not subject to either hierarchical authority or administrative oversight.

To find out, this requires analyzing the provisions of the Mining Law and its implementing texts, so that it becomes clear to us that. The legislator granted them

independence in some aspects (First Section), but in return he worked to limit it in other aspects (Second Section).

First Section: The Functional Independence Manifestations

The study of the manifestations of the independence of the two agencies will begin with the financial independence, then move on to the rest of the results resulting from the legal personality, which contributes to some extent to strengthening the independence of the two agencies from a functional point of view.

Financial independence is another aspect of functional independence, which results from the financial autonomy of two agencies endowed with legal personality. Their resources stem from the allocations granted to them by the State within the framework of the budget (Law No. 25-12. A.44) and from the revenues generated by their regulatory activities. The latter include charges for processing applications for mining titles as well as for other licenses and services, such as title renewal, amendments, suspension, withdrawal, assignment, subleasing or even transfer by way of leasing or otherwise. These agencies can also receive gifts or bequests. The predominant share of self-financing in the resources of these two agencies is in itself a guarantee of their financial autonomy. This is similar to what is noted with regard to the agencies in charge of regulating the hydrocarbons sector (Zouaïmia, 2010, p.26).

Legal personality entails three further consequences: administrative independence (the board votes the budget and approves the procedures); capacity to contract with national and international partners with relevant expertise in mining sciences; and legal capacity, that is, the right to bring and defend legal actions in the agency's own name. The chair of the board represents the agency in court, and the agencies bring proceedings on behalf of and for the benefit of the State, whether as claimant or defendant.

If these are the organic independence manifestations of the two mining agencies, then, conversely, they encounter obstacles that limit this independence, and this is evident in many aspects.

Second Section : The Functional Independence Limits

Three limits substantially erode functional independence. First, the agencies enjoy only a partial benefit from the revenues their activity generates: the legislator grants holders of mining titles and permits a series of exemptions and reductions for specific reasons, and authorises local authorities to benefit from a share of these resources. Second, and more importantly, the proceeds of fines imposed on titleholders for breaches of the legislative and regulatory framework accrue to the public treasury rather than to the Mining Assets Fund, depriving the agencies of one of the most powerful sources of regulatory revenue. Third, the annual budgets of both agencies are subject to the prior approval of the Minister in charge of energy and mines, pursuant to Executive Decree No. 07-266 (Executive Decree No. 07-266). Ministerial budget

approval is, on the comparative literature, a more decisive determinant of de facto independence than any single appointment rule (Maggetti, 2007).

A fourth and equally decisive limit concerns the internal organization of the agencies. Article 43 of Law No. 25-12 provides that "the organization and operation of the mining agencies shall be determined by regulation". The agencies have no power to draw up their own internal rules; the executive does. Among Algerian regulators, only the Competition Council shares this feature; the Stock Exchange Committee (Legislative Decree No. 93-10 Legislative Decree No. 93-10), and the Electricity and Gas Regulatory Commission, by contrast, are empowered to adopt their own internal regulations. The mining agencies thus join the smaller, more dependent class of Algerian regulators.

Table 2. Comparative independence guarantees across selected Algerian regulators

Indicator	Mining agencies (Law 25-12)	Telecom (Law 18-04)	Electricity & Gas (Law 02-01)	Stock Exchange Comm. (Decree 93-10)
Collegial body	Yes (5 members)	Yes	Yes	Yes
Statutory qualifications for members	No	No	No	Partial
Plural appointing authorities	No (President alone)	No	No	Yes (3 ministers)
Plural proposing bodies	No (sole minister)	No	No	Yes
Incompatibility regime	Partial (2-year cooling-off)	Partial	Partial	Partial
Self-determined internal rules	No (set by regulation)	Yes	Yes	Yes
Budget approval by minister	Yes	Yes	Yes	No
Revenue from fines	No (Treasury)	Partial	Partial	Partial

Source: authors' elaboration from the founding texts of each regulator. The classification is necessarily summary; for a fuller treatment of the comparator regulators see Naar (2025).

Conclusion:

Law No. 25-12 of 3 August 2025 reclassifies the two Algerian mining agencies, ANAM and ASGA, as independent administrative authorities, repealing their 2014 commercial character. The reclassification is coherent with the administrative nature of the missions they discharge, and the resulting legal regime is best understood as a hybrid in which public-law rules govern decision-making and judicial review while private-law rules govern accounting and staff. This hybridization, far from being anomalous, is characteristic of the Algerian regulatory state.

However, the independence of the two agencies, on the other hand, is considerably constrained by the institutional arrangement through which it is implemented. Organic independence suffers owing to the lack of legal qualifications for the board of directors, the monopoly of appointment authority in the President of the Republic, and the consolidation of nominating authority in one ministry alone. Functional independence, on its part, suffers due to ministerial control over annual budgets, non-access to the revenue from fines, and the imposition of organizational structure through regulations.

These findings carry implications beyond the doctrinal sphere. They suggest that the reform's objective of attracting foreign mining investment may be compromised by an institutional architecture that fails to provide credible regulatory commitment. Three corrective directions emerge: statutory qualifications for board members, diversification of nominating authorities, and greater agency autonomy over internal rules and budget.

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