

Between Protection and Challenges: What Legal Status for the Minor Partner in a General Partnership Company

بين الحماية والتحديات: أي مركز قانوني للشريك القاصر في شركة التضامن

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Abstract:

The specificity of the legal status of the partner in a general partnership, whose liability extends as a guarantee to the creditors alongside acquiring the status of a trader, precludes minors from joining the company as a rule. However, the Algerian legislator allows exceptions for minors authorized to trade under the conditions of Article 5 of the Commercial Law to join the company upon its establishment or to participate if they inherit a share. This raises questions regarding the responsibility placed on the minors, regulated by Article 562/2 within the limits of their inheritance. This liability presents significant challenges that may contradict the legal protection afforded to minors, necessitating a reconsideration of these provisions to ensure their partnership balances the rights and duties of partners while safeguarding them from risks. Additionally, establishing a legal framework for minor partners based on principles similar to those for special limited companies is imperative.

Keywords: minor, restriction, company, general partnership, inclusion, liability.

المخلص:

تتطلب خصوصية المركز القانوني للشريك المتضامن الذي تكون ذمته ضمانا عاما لدائتي الشركة موازاة مع اكتسابه لصفة التاجر، عدم جواز انضمام القاصر كشريك في شركة التضامن كأصل عام. المشرع يخول استثناء للقاصر المأذون له بالتجارة بشروط المادة الخامسة من القانون التجاري للانضمام إلى شركة التضامن عند تأسيسها، وسمح للقاصر الاشتراك فيها في حالة أيلولة حصة له بالميراث. تثير هذه الحالة بعض التساؤلات، خاصة بالنسبة للمسؤولية الملقاة على الشريك القاصر، والتي يحددها المشرع الجزائري في نص المادة 562/2 بحدود أموال تركه مورثه. تنطوي هذه المسؤولية على تحديات كبيرة قد تتعارض مع مبدأ الحماية المكفولة قانوناً للقصر، مما يستدعي ضرورة إعادة النظر في أحكام هذه المادة وتوجيهها لضمان مشاركة القاصر في نظام الشركة بشكل يحقق التوازن بين حقوق الشريك وواجباته، وحمايته من أي مخاطر محتملة، بالإضافة إلى إيجاد مركز قانوني للقاصر في شركة التضامن يستند إلى أسس قانونية شبيهة بتلك المقررة لشركة التوصية البسيطة. الكلمات المفتاحية: القاصر، الترشيح، شركة تضامن، الانضمام، المسؤولية.



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Introduction

General partnership companies, like all partnerships, are characterized by personhood, giving them the advantage of being an optimal model due to their ability to achieve a balance between effectiveness resulting from legal personality and their flexible structure. They play an active role in supporting trade credit and enhancing trust by providing financial protection to third parties and contributing to building strong business relationships.

The importance and position of a general partnership company in the business environment are manifested in various aspects, including encouraging entrepreneurship, promoting cooperation and solidarity among partners, helping them achieve their business goals better compared to individual investment. Partnership enables them to participate in profits and share losses, thereby reducing the risk of bankruptcy and promoting market stability, investment, and economic development.

Given the importance of partnership companies, the legislator has showed them special care. This care is reflected in the legal status granted to their members allowing them to become traders as soon as they sign the founding contract of the company. Consequently, they bear personal and joint responsibility for the company's debts, necessitating them to have a special type of capacity that qualifies them to face the risks arising from their commercial commitments. This capacity includes acquiring rights, assuming obligations, and having the ability to manage them, determined by the provisions of civil law by reaching the age of nineteen (19) years and not being subject to any impediment of capacity, under the penalty of nullity of the contract for the person who caused the nullity.

The legislator didn't exempt trader with special capacity, distinguishing it from civil law, as long as goal remains ensuring transaction integrity and regulating legal relationships to prevent unqualified individuals harming others' interests. However, provisions exist for trade capacity without legal capacity, like minor wishing to invest in economic project, enter finance/business via commercial company, without maturity/awareness necessary, posing risks to minor's financial liability.

The issue of minor joining general partnership company raises challenges regarding acceptance of minor's investments as founding partner or expressing desire to join establishment. Another issue is accepting minor partner after establishment, like acquiring share through inheritance. Minor often forced to bear significant responsibility exceeding financial/mental capabilities, affecting and infringing upon legal protection guaranteed by law.

The issue necessitates inquiry about sufficiency of legal provisions in balancing joint partner's legal status and ensuring minor's joining while preserving interests and protection. Precisely, the extent ensuring minor's role/contribution without conflicting legal partner status? This research question addressed within two axes: first, legal partner

status in general partnership company; second, limitations/challenges of minor joining this company type.

Section I:

The Distinction of the Partner's Legal Status in a Partnership Company

Article 551 of the Commercial Law stipulates that partners in a partnership company have the status of traders and are jointly and severally liable for the company's debts without specification. Accordingly, the responsibility of the partner is based on acquiring the trader status. This status is acquired upon joining this type of commercial companies, even if members have not previously engaged in trade and entered as a partner in the company, contributing actively to the management of the company or not.

⁽¹⁾Acquiring the status of a trader upon joining a general partnership company is a logical consequence of signing the contract and giving a name to the company that consists of the names of all partners⁽²⁾. The partners' credit constitutes the company's credit, and their funds are a general guarantee for its creditors. This necessitates them having a legal capacity required for commercial transactions in general and commitments in a partnership company specifically. This is due to the particular responsibility imposed by this type of company on the partner, and the financial risks associated to this responsibility to ensure the company's debt repayment. Thus, it imparts a distinctive quality to the legal status of partners in a partnership company.

A) Acquisition of Trader Status by the Partner:

Every partner in a partnership company, considering it as a commercial company based on personal considerations, acquires the status of a trader simply by signing the company's bylaws, even if they did not possess this status previously. The legislator's intention in granting the partner the status of a trader is to guarantee the protection of the rights of the company's creditors, not because the partner is considered a trader per-se ⁽³⁾, but rather to place them in a position no different from someone conducting these activities under their own name. Consequently, the partner must have the necessary legal capacity to engage in trade, determined according to the provisions of Algerian civil law⁴, by reaching the age of majority, which is nineteen (19) years, or by obtaining judicial approval for a minor who is eighteen (18) years old, under the conditions stipulated in the aforementioned fifth article of the Commercial Law, allowing minors to join the company as a partner when granted absolute permission to engage in trade⁽⁵⁾.

Obtaining trader status entails the partner's obligation to fulfill commercial responsibilities and execute all necessary actions mandated by their trade. Alongside these obligations, partners also acquire a set of rights that accompany this status. The partner assumes the inherent responsibilities associated with the trader status, thereby placing them in a distinct legal position. If a minor partner is found in a general partnership company without meeting the mentioned conditions, the entire company is

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invalidated as it was based on legal personality considerations, and the nullity serves as an aspect of protection. The company is then dissolved as a general asset unless the company's articles of association expressly provide for its continuation, in which case the rights of the incapacitated partner are preserved and fulfilled ⁽⁶⁾. Additionally, the company may continue in another scenario by explicit agreement in the founding contract with minor partners, such as in the event of the death of a partner and the transfer of their share to their minor heirs who are responsible for the company's debts during their minority with limited liability within the limits of the deceased's estate.

E) Assumption of Personal, Joint, and Several Liability of a Partner:

The fundamental principle governing the personal liability of partners in a general partnership company, where they are collectively and individually liable for the company's debts ⁷without limitation, stands as one of the most significant attributes of this company rooted in the concept of legal personality. Thus, each partner is responsible for the company's debts as if they were their personal debts. It should be noted that these principles are presumed among the partners and are part of the general system, and it is not permissible for the partners to agree in the company's articles of association to exclude them.

As a result, both the adult partner and the minor partner, provided the latter has obtained legal permission as stipulated in the fifth article of the Commercial Law, are equally subject to personal, joint, and several liability for the company's debts. They undertake the company's obligations as if they were their own personal commitments.

The feature of liability imposed on the partners in this particular type of company is what sets it apart and distinguishes it from other companies. The partner is jointly and severally liable for the company's debts with the other partners, even if the debt is solely the company's liability and regardless of their share in the company's capital. The principle of joint liability established by law operates between the partners themselves and also between the partners and the company. This liability persists even if a partner declares bankruptcy or withdraws from the company, as they remain responsible for debts incurred before their withdrawal unless assumed by the joining partner. This joint liability among the partners continues even after the dissolution of the company until it is extinguished by the five-year statute of limitations stipulated in Article 777 of the Algerian Commercial Law ⁽⁸⁾.

While the partners are collectively responsible for the company's obligations, they have the right to settle the company's debts by seizing its assets initially, acting as the primary debtors before being individually or collectively pursued. This arrangement, based on presumed solidarity among partners, allows creditors to select the most suitable partner to recover the debt from, rather than pursuing all partners separately ⁽⁹⁾.

Regarding the personal liability of the partner in a general partnership company, it is considered the most dangerous to the partners' interests. The partner personally

undertakes the company's obligations, and its debts become part of the partner's negative financial status. According to some jurisprudence⁽¹⁰⁾, this liability is attributed to signing the company's commitments under its name, which includes the names of all partners, implying that each partner has personally committed to the company's obligations, even if not signed by them personally. Therefore, the creditors of the company can individually or collectively resort to any partner's personal assets for all or part of the debt, regardless of their share and the value of the outstanding debts. Thus, the creditors of the company have a special and primary guarantee on the company's liabilities and an additional guarantee on the personal liabilities of the partners, competing with the personal creditors of the partner⁽¹¹⁾.

The concept of unlimited liability in a general partnership company means that the partner is personally responsible for the company's debts to third parties using all their assets, including those contributed as a partner and their personal assets, thus encompassing their entire financial liability.

In this context, it's important to clarify that the joint and several liability of partners in a general partnership company is regarded as secondary or precautionary, given that the primary debtor is the company itself, which possesses its own financial liability as a legal entity. The law stipulates that creditors cannot pursue partners until the company is first notified to meet its obligations. Only if the company fails to fulfil its obligations can the creditor turn to the partner, ensuring that the company's creditors do not take precedence over the personal creditors of the partner⁽¹²⁾.

However, the creditor of the company has the right to compete with the partner's personal creditor without the latter having the right to object as long as the company's creditor has respected the regulatory condition stipulated in Article 551 of the Commercial Law, which requires waiting for a period of fifteen (15) days from the date of notification to the company for payment ⁽¹³⁾ before recourse to the partners and claiming the debt.

If the principle of personal and joint and several liability of partners in a general partnership company is part of the general system, any agreement in the founding contract that exempts one or more partners from liability for the company's debts or determines their liability is null. However, exceptions to this principle apply to the minor joining the company through inheritance ⁽¹⁴⁾. The legislator confines their liability to the extent of their deceased relative's estate. This exception is warranted due to the vulnerable position of the minor partner, necessitating additional legal protection.

Section II:

Constraints and Challenges of Minor Participation in a General Partnership Company

The distinctive legal status of a partner in a general partnership company, particularly the acquisition of trader status, necessitates the partner's complete commercial capacity. Failure to meet this requirement renders the company susceptible to nullity.

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However, acknowledging the necessity of having this capacity in the partner due to its implications on the company's validity and nullity, as well as on the rights of partners and third parties, does not completely exclude minors from investing in the company's project. Instead, it may be possible for them to do so when the conditions required by their legal status in this particular type of commercial companies are met. In such cases, the partner faces more serious risks than if they were conducting business individually or participating in a contract with limited liability companies where their liability is limited to their share in the capital. This necessitates a special type of authority that enables those willing to join a general partnership company to confront the consequences associated with the commitments made by either themselves or the company. The authority allowing minors to join a general partnership company during its establishment has been acknowledged by jurisprudence and legal experts, particularly within the framework of the judicial approval system outlined in Article 5 of the Commercial Law in Algeria. While this system guarantees the right of a minor to voluntarily join a general partnership company during its establishment under specific conditions, the situation becomes more complex when a company is faced with the involuntary arrival of a minor partner, such as in cases where a share in the company is allocated to a minor through inheritance.

In this axis, we will explore the judicial approval system as a condition preventing minors from joining a general partnership company during its establishment, as well as the situation of minors in the event of inheriting a share in the company.

A) Judicial Approval as a Requirement for a Minor to Join a General partnership Company during its Establishment:

The general rule requires that a partner be legally capable of undertaking legal actions, meaning they must be of legal age and mature, and not be incapacitated in any way ⁽¹⁵⁾. This is known as full commercial capacity, for which the legislator, in cases where it is lacking, has established specific provisions allowing minors to invest their funds in a general partnership company as an exception to the general rule, provided they obtain legal permission to engage in trade according to Article 5 of the Algerian Commercial Law. This article stipulates that the minor must be at least eighteen years old and obtain permission from their father, mother, or a decision from the family council. The process of granting permission must adhere to the legal procedures outlined in the law ⁽¹⁶⁾, which are considered part of the general system. It's important to note that the law does not permit the mother to grant permission if the father is available unless certain conditions are met, and the permission of the guardian is not valid if the father is available unless it is ratified by the competent court and registered in the commercial register to protect the minor's commercial status against others. The wisdom behind requiring permission for a minor to engage in commercial activities lies in ensuring the soundness of their mind, their capability, and readiness to enter the business world, as well as

preventing others from taking advantage of them and depriving them of investment opportunities, especially if they have significant interests and potentials in this field ⁽¹⁷⁾.

The legal permission granted to a minor to engage in trade may either be unconditional, without specifying a particular trade, or restricted to a specific activity required by trade ⁽¹⁸⁾. The issue of determining the legal nature of the permission granted to a minor has sparked widespread jurisprudential debate. Some jurists argue that granting an unrestricted permission allows the minor to conduct transactions with all their assets and acquire the status of a trader, thereby subjecting them to commercial obligations and responsibilities. Accordingly, if the minor meets the criteria for prudence and wishes to become a joint partner, the court may grant them explicit and unconditional permission, considering that their liability in the company will extend to their personal assets and they will be subject to bankruptcy proceedings like other adult joint partners. However, others argue that general permission for a minor to engage in trade may not be sufficient to qualify them as eligible to enter as a joint partner. This is because legal prudence, as mandated by law, applies specifically to individual commercial activities rather than partnership arrangements. Therefore, obtaining specific and explicit permission from the guardian or the court is necessary due to the significant risks associated with such general partnerships ⁽¹⁹⁾.

As for the position of the Algerian legislator regarding the legal permission granted to minors to engage in trade, it is not prominent and explicit regarding whether it is unconditional or restricted. This ambiguity leaves room for interpretation, whether it is considered general or specific, such as being limited to certain commercial operations rather than others ⁽²⁰⁾.

Referring to the aforementioned Article 5 of the Commercial Law, it becomes evident that the authorization to conduct trade is granted without conditions or limitations. Consequently, a supervised minor is permitted to invest their capital in any commercial sector unless it pertains to real estate transactions. The legislator, in accordance with Article 6 of the Commercial Law, prohibits those authorized to engage in trade from dealing with real estate unless specific procedures are adhered to, such as the sale of property belonging to minors or legally incapacitated individuals ⁽²¹⁾.

As for the issue of the possibility of revoking or amending the authorization granted to a minor desiring to engage in trade, although not explicitly addressed in commercial legislation, the principle of the minor's best interest, as determined by the judge, governs the modification or withdrawal of the legal permission by the authority empowered to grant it. The consent to revoke or amend the authorization must be obtained from the specialized court. Therefore, the commercial capacity of the minor is determined within the limits set by the granting authority, with modifications or withdrawals made when deemed necessary for the minor's welfare or in cases of proven misuse by the authorized minor in handling their funds.

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In the same context, it should be noted that Algerian legislation distinguishes between minors aged eighteen and above and minors below the age of eighteen. Minors below the age of eighteen are prohibited from engaging in trade, and if they do so despite the legal prohibition, their actions are considered void for their own benefit. In the event that a minor possesses rights in a company, they must be represented by their legal guardian after obtaining authorization from the judge.

Based on the preceding, we conclude that when the legal conditions governing the system of capacity attainment are met, the minor, whether male or female, becomes endowed with full commercial capacity, similar to that of an adult. Thus, they acquire the status of a trader and are bound by commercial obligations. There is no justification for depriving them of managing their assets and disposing of them, whether individually or in general partnership in a company contract, even if it is a general partnership company with unlimited liability. Despite the heavy responsibility placed on the shoulders of the joint partners, we believe it is necessary to give the guided partner the opportunity to train for entering the business world and investing in any economic project, and to emancipate themselves from the authority of the legal guardian. However, it is worth noting that the system of capacity attainment stipulated in the Commercial Law regarding minors' right to engage in trade is subject to criticism, especially since there is no explicit mention in these provisions of the right to capacity attainment guaranteed by law for minors to engage in trade and their right to join a general partnership company.

B) Challenges Faced by the General partnership Company in Dealing with the Inclusion of a Minor as a Partner:

The inclusion of a minor as a partner in a general partnership company poses financial, legal, and administrative challenges for the company. This requires a deep understanding of relevant laws and policies, as well as the search for effective mechanisms to provide protection for the minor partner.

In the case of a general partnership company, there are situations prescribed by law where the company is compelled to accept the inclusion of a minor partner, as is the case when a share in the company is transferred to the minor through inheritance. This scenario is one of the important issues that have attracted the attention of many legislators, whose opinions have conflicted due to the uniqueness and status of legal personality in this type of company. The legal status of the partner in such a company requires full commercial capacity, even if attained through capacity attainment, considering the risks that may arise from the significant responsibility placed on them. By joining the company, the minor partner becomes responsible not only for their own actions and commitments but also for the actions and activities of all other partners in the company⁽²²⁾.

Since the general partnership company is founded on the personal liability of the partners, the general rule dictates that this company dissolves for the same reasons that

affect partnerships, such as the death of one of the partners. Each partner being an integral part of the fundamental structure of the company, and their legal personality being a matter of consideration. However, as with any principle, there must be exceptions. The death of one of the partners may not necessarily lead to the dissolution of the company if there is a provision in the company's bylaws stipulating its continuation, and the other partners unanimously agree to it ⁽²³⁾. Thus, dissolution here is not part of the general system, and therefore it is permissible to agree to deviate from it and continue the company ⁽²⁴⁾. If the law allows for the transfer of a deceased partner's share in a general partnership company to their minor heir when the condition of continuity exists, what then is the legal status of this minor who is intended to join the company involuntarily, bearing in mind that its members bear absolute and personal responsibility for its debts? This is a question that some legislators ⁽²⁵⁾ argue requires considering the minor joining the company through inheritance as a full partner instead of their deceased predecessor, assuming all obligations and enjoying all rights provided in this regard. This was also the decision reached by the Egyptian Court of Cassation in its ruling dated January 19, 1997, in consideration of the minor's interests on one hand and the interests of the company and the other joint partners on the other hand, as long as the founding contract of the company includes a clause preventing its dissolution upon the death of one of the partners.

Another aspect of jurisprudence argues for the necessity of limiting the liability of a minor in a general partnership company to their own property or share, so that the consequences of insolvency do not extend to their person but are confined to their assets alone⁽²⁶⁾. This view is shared by Professor Nadia Fadil ⁽²⁷⁾, who asserts that considering the minor as a joint partner does not subject them to personal insolvency, but only affects their assets.

As for the jurisprudential opinion supported by many researchers, it allows for the continuation of the general partnership company in the event of the death of one of the partners leaving behind a minor heir. In this scenario, the minor heir joins the company as a recommended partner, with his liability limited to the share inherited from the deceased partner. Consequently, the company transforms into a special limited partnership ⁽²⁸⁾, or alternatively, the deceased partner's share is withdrawn and given to the heirs ⁽²⁹⁾.

As for the position of the Algerian legislator regarding the involvement of a minor in a general partnership company with a share inherited through succession, it is evident from the second paragraph of Article 562 of the Commercial Law that the company, as a general rule, dissolves upon the death of one of the partners unless there is a contrary provision in the company's articles of association. Therefore, if the legislator allows for an agreement to continue the company, such an agreement must take one of the following forms:

- Agreement among the remaining partners to continue the company without the participation of the heirs of the deceased partner. In this case, the heirs are entitled to reclaim the inherited share after its valuation in cash.

- Continuation of the company with the heirs of the deceased partner if they meet the legal requirements necessary to acquire the status of a trader.

However, in cases where among these heirs there are minors who do not have the necessary legal capacity to join the company and thus acquire the commercial status required by the sensitive legal position of the partner in the general partnership, the commercial legislator has acknowledged the validity of a provision in the contract ⁽³⁰⁾ allowing for the minor to replace the deceased partner in the general partnership, provided that they are liable only within the limits of the estate of their deceased relative. Thus, the minor is subject to a special legal regime that grants them the status of a limited partner, with their liability restricted to the assets of their relative's estate. They are not personally liable for the company's debts, and their personal assets are not subject to insolvency. However, this special legal regime created by the legislator as a legal solution to the involuntary inclusion of a minor in a general partnership through inheritance, which serves the minor's interest over that of the company and its partners, is exceptional and temporary. It ceases to apply once the minor reaches the age of majority or when a minor who has reached the age of eighteen meets the conditions required by the law, at which point they become subject to the same legal regime as the other general partners in the company ⁽³¹⁾.

The establishment of a special legal status for the minor partner in a general partnership, as stipulated in Article 562 of the Commercial Law, prompts questions regarding the essence of this type of company. Is it genuinely a general partnership where partners' statuses carry weight, and their assets act as collateral for the company's creditors? Alternatively, could it be a special limited partnership in disguise, with a legal framework accommodating two separate statuses: partners with unlimited liability, accountable for the company's debts using their personal assets ⁽³²⁾, and partners with limited liability, shielded from direct responsibility to the company's creditors? This ambiguity should be addressed and corrected by the legislator following the example of the majority of Arab legislations, including the Jordanian legislation, which took the correct stance by explicitly allowing the minor to join the general partnership up to the extent of their inherited share, becoming a limited partner, thereby transforming the company into a special limited partnership ⁽³³⁾. This ensures the principle of equality among partners in the company, eliminating any disparity in the extent of liability among partners with the same rights. In conclusion, it would have been more appropriate for the Algerian legislator to seize the opportunity to rectify this situation following the recent amendments to the Commercial Law. This could have been achieved by specifying in the same article that in the event of the continued existence of a general partnership by agreement of the partners upon the death of one of them, his or her minor heirs would be considered limited liability partners within the limits of their inheritance share ⁽³⁴⁾ (a form

of limited partnership), with the possibility of the company reverting to its original ⁽³⁵⁾ form once the minors among the partners become legally eligible.

The inclusion of a minor in a general partnership company presents several challenges related to responsibility and protection. These protections and responsibilities, which serve as the foundation of the minor's participation in the company project, vary depending on the laws and regulations applicable in each country. However, they typically include certain guarantees to protect the interests and rights of the minor while also defining their obligations.

Conclusion:

By examining the issue of a minor joining a general partnership company, whether voluntarily at the company's foundation or involuntarily through inheritance, we see the Algerian legislator's efforts to find solutions to balance the protection of the minor's interests with the company's interests when facing the arrival of a minor partner unable to bear the obligations and responsibilities required by their legal status in a partnership where partners are personally and jointly liable for all debts arising from the company's commitments with third parties.

If, as a general principle, minors are not permitted to engage directly in commercial activities, including becoming partners in commercial enterprises based on legal personality consideration, such as general partnership companies, where a partner assumes the status of a trader upon joining, then it is permissible for them to do so as an exception when they obtain legal permission to do so, as deemed appropriate by the judge for their best interests. A minor who has reached the age of eighteen and is authorized to engage in trade according to the provisions of Article 5 of the Commercial Law may participate as a joint partner in the company if they are granted unrestricted permission to do so.

If the aim of granting commercial capacity by the legislator to minors, through obtaining permission to trade, is to protect their rights, it is insufficient to achieve adequate protection from the risks of trade and its negative repercussions, such as exposure to bankruptcy proceedings. Hence, the legislator is careful to ensure greater protection for minor partners in general partnership companies by enacting special provisions regarding liability and capacity as a form of protection. Participation of minors in a general partnership company raises legal and financial challenges that require a thorough understanding of the laws and regulations and the development of effective strategies to protect their rights and interests within the framework of the partnership. In conclusion, our study of this topic has led us to several key findings, summarized as follows:

- It is permissible for a minor to join a general partnership company voluntarily at the time of its establishment or involuntarily during the company's operation, as is the case with the inheritance of a share or the incapacity of one of the partners due to legal restrictions, according to the criteria defined by the law.

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- The Algerian legislator has surrounded the general partnership company with special provisions due to its importance and role in enhancing commercial credit on one hand, and the risks it entails as a result of considering the partners' assets as a general guarantee for its creditors on the other hand.

- The legislator emphasized the requirement of commercial eligibility necessary for a partner to join a general partnership company, stipulating the attainment of the age of 19 as a general rule and 18 as an exception, provided that the conditions of legal capacity are met. Otherwise, their actions and commitments are subject to cancellation in their favor.

- Specifying the liability of the minor partner within the limits of their inheritance rather than within the limits of their share in the company's capital seems to impose a stricter and unfair burden on the minor compared to the flexible and limited liability borne by the recommended partner in a special limited partnership company.

- The legislator, under the provisions of Article 562 of the Commercial Law, allows for the continuation of a general partnership company in the event of the death of one of the partners, despite the legal personality consideration that distinguishes this type of company, provided that all partners agree to this in the establishment contract.

- The possibility of transferring the share of a deceased partner to their minor heirs, whose responsibility is limited to the estate of the deceased, is granted by the legislator without specifying whether they acquire the status of a merchant or not.

- The commercial legislator endeavours to protect minors, even if it requires deviating from the general rules mandated by the commercial company system.

Despite the Algerian legislator's attempts to address and regulate the issue of minors joining general partnership companies as the optimal model for personal companies, and the special legal status of the partner in such companies, it has not succeeded in finding mechanisms or establishing guidelines capable of achieving the desired effectiveness. This prompts us to propose some solutions that we hope will help alleviate the shortcomings of some provisions and achieve the desired goal. These solutions include:

- * There is a necessity to establish more precise and detailed legal provisions in the commercial law regarding the legal status of minor partners in general partnership companies, ensuring their interests as well as those of the company and other partners.

- * There is a need to regulate the provisions regarding the liability of minor partners in general partnership companies, considering the significant financial and personal risks associated with this liability that may exceed the financial and personal capabilities of the minor.

- * It is imperative for the legislature to intervene, without delay, to amend the provisions of Article 562 of the Commercial Law and address the rights of the minor regulated within it, particularly concerning the inheritance share. This involves

interpreting its form within a year and converting it into a special limited partnership company, where the minor's interests are safeguarded by limiting their liability to the extent of their share in the company's capital.

* The inclusion of a minor in a general partnership company necessitates the establishment of clear policies and procedures that delineate the rights and responsibilities of both the minor and the company. These policies should ensure the protection of the minor's rights and interests while fostering the development of their investment capabilities in a suitable work environment.

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- ¹³ - Ahmed Mahrez,*ibid.*, p. 157.
- ¹⁴ - Article 562/2 of the Algerian Commercial Law stipulates that: "Minors who inherit a partner's share in the continued existence of the company are not liable for the company's debts during their minority, except up to the limit of their inherited estate."
- ¹⁵ - Abbas Mustafa El-Masri, *Regulation of Commercial Companies*, Reference, p. 25.
- ¹⁶ - Al-Azhar Labidi, *Explanation of Algerian Commercial Law, Commercial Activities, Trader, Commercial Premises*, Mansour Al-Wadi Printing Press, Algeria, 2022, p. 119.
- ¹⁷ - Hani Dawidar, *Commercial Law, Legal Regulation of Traders*, Dar Al-Jamia Al-Jadida, Egypt, 2015, p. 142.
- ¹⁸ - Mustafa Kamal Taha, *Commercial Law, Establishment of Ma'arif*, Alexandria, p. 132.
- ¹⁹ - Akram Yamaliki, *ibid.*, p. 74.
- ²⁰ - Mustafa Kamal Taha, *op.cit.*, p. 272.
- ²¹ - Lazhar Labidi, *op.cit.*, p. 124.

- ²² - Mohammed El-Sayed El-Feki, *Theory of Commercial Transactions and Traders - Part One* -, Halabi Legal Publications, First Edition, 2005, p. 187.
- ²³ - Tayeb Beloula, *Company Law*, Bertie Publications, Second Edition, p. 178.
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- ³⁰ - Samia Hassain, *Commercial Capacity of Minors and Protection of Their Assets in Algerian Legislation*, *The Critical Journal of Law and Political Science*, Issue 1, 2014, p. 199.
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- ³² - Tayeb Beloula, *Droit des Sociétés*, Edition BERTI, 2006, Alger, P : 162.
- ³³ - Akram Yamalki, *op.cit.*, p. 97.
- ³⁴ - Mustafa Kamal Taha, *op.cit.*, p. 124.
- ³⁵ - Mohamed Salah, *op.cit.*, P: 317.