

The Legal and Institutional System for Algerian Investment Abroad

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Abstract:

This research analyzes the legal and institutional framework governing the liberalization, regulation, and protection of Algerian investments abroad. It highlights Algeria's strategic shift from a restrictive economy to directed financial openness, empowering local enterprises to expand internationally. Key legislative milestones, particularly Investment Law 22-18 and Monetary and Banking Law 23-09, establish the fundamental right to transfer capital. Strict institutional oversight is maintained by the Bank of Algeria and the Monetary and Banking Council through Regulation 14-04 to safeguard macroeconomic stability. Operational constraints require investors to self-finance using export revenues and mandate the immediate repatriation of all foreign profits. Finally, international legal mechanisms, including Bilateral Investment Treaties and ICSID arbitration, shield these investments from non-commercial sovereign risks.

Keywords: Algerian Investment Abroad, Capital Transfer, Foreign Direct Investment (FDI), Monetary and Banking Law, ICSID Arbitration.

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1. INTRODUCTION

The architecture of the global economy has undergone profound, structural, and irreversible transformations over the past few decades, precipitating the necessity to formulate entirely novel legal paradigms capable of governing the highly complex cross-border movement of capital. In an era increasingly defined by global financial openness, hyper-connectivity, and the dismantling of traditional economic borders, these macroeconomic shifts have catalyzed an unprecedented wave of international mergers, acquisitions, and strategic transnational alliances. Such mechanisms are no longer merely optional expansion strategies; they have become existential prerequisites for corporate survival, enabling multinational entities to mitigate systemic economic crises, diversify jurisdictional risk, and leverage transnational opportunities. Historically, developed nations and advanced economies have monopolistically relied on a diverse array of sophisticated mechanisms to penetrate, capture, and dominate global markets, most notably through aggressive Foreign Direct Investment (FDI) and unrestricted transnational commerce. Concurrently, emerging economies—having spent decades serving primarily as host destinations for this capital—have increasingly recognized a fundamental economic reality: genuine integration into the contemporary global economic architecture requires strategies that extend far beyond merely opening domestic markets to incoming foreign capital. True economic assimilation, sovereign resilience, and sustainable development mandate the cultivation of robust domestic competitive capacities, thereby empowering local enterprises to invest, expand, and flourish beyond their national frontiers as active exporters of capital.

Within this dynamic and highly competitive global context, the Algerian State has embarked on a strategic imperative to comprehensively harmonize its legal, institutional, and economic frameworks with these modern exigencies. For decades following independence, the overarching Algerian legislative and political focus was almost exclusively anchored on attracting inward Foreign Direct Investment. This inward-looking strategy

was designed to stimulate domestic infrastructural development, alleviate persistent unemployment, and facilitate the transfer of advanced technology and managerial know-how through a succession of consecutive investment codes and restrictive economic policies (Al-Ayeb, 2021). However, as the limitations of a purely receptive economic model became apparent, a pressing and inescapable necessity emerged to adopt a parallel, outward-looking strategy: the institutionalization and rigorous regulation of a comprehensive legal framework specifically tailored for "Algerian Investment Abroad" (Al-Ayeb, 2021). The realization materialized that sustainable integration into the global economy dictates that national economic entities, particularly those within the burgeoning and increasingly sophisticated private sector, must be legally and operationally equipped to transcend territorial boundaries. This strategic outward expansion is deemed critical for accessing novel and lucrative consumer markets, securing vital upstream raw materials, bolstering overall international competitiveness through economies of scale, and ultimately repatriating substantial financial yields to fortify the Algerian balance of payments and national sovereign wealth (Al-Ayeb, 2021; Kadri, 2006).

This profound strategic pivot has been recently validated and accelerated by highly encouraging macroeconomic indicators registering within the Algerian economy, signaling a transition from dependency to emergent capacity. In the first quarter of 2025, the national economic growth rate reached a robust 4.5%, while the non-hydrocarbon Gross Domestic Product (GDP)—a critical metric for measuring the success of economic diversification—registered a remarkable and sustained increase of 5.7% (United Nations Conference on Trade and Development, n.d.). These figures represent a significant milestone in Algeria's long-term, multi-decade economic diversification efforts, signaling a maturation of the domestic market that is now demonstrably capable of exporting capital alongside its traditional commodity exports.

Nevertheless, this qualitative macroeconomic leap introduces a central and highly complex jurisprudential and administrative problematic: achieving a delicate, sustainable equilibrium between systemic financial

openness and the retention of sovereign regulatory control. The fundamental inquiry guiding this comprehensive research report is thus articulated as follows: To what extent has the Algerian legislator succeeded in establishing a cohesive, comprehensive, and functional legal framework for outward investment that successfully harmonizes the freedom of international corporate initiative with the stringent exercise of sovereign macroeconomic oversight in service of the national economy?

To systematically and exhaustively address this inquiry, this report employs a rigorous analytical methodology designed to deconstruct the relevant legal texts, augmented by a comparative approach to evaluate the Algerian regulatory experience against established international legal practices and norms. The study is structured into two primary sections, meticulously preserving the original thematic architecture of the subject matter. The first section explores in profound depth the legal and institutional framework governing the liberalization and strategic direction of Algerian investment abroad, tracing the protracted legislative evolution from an era of socialist monopolies to the modern epoch, culminating in the watershed Monetary and Banking Law No. 23-09. The second section delves deeply into the operational constraints, the specific monetary determinants, and the regulatory mechanisms enshrined in Bank of Algeria Regulation No. 14-04. It subsequently examines the indispensable legal and judicial protection mechanisms—such as international commercial arbitration, the International Centre for Settlement of Investment Disputes (ICSID), and Bilateral Investment Treaties (BITs)—that serve to safeguard Algerian investments against sovereign interference and non-commercial risks in foreign host jurisdictions.

2. First Section: The Legal and Institutional Framework for the Liberalization and Direction of Algerian Investment Abroad:

The architecture of a comprehensive, secure, and highly functional legal system for outward foreign investment is fundamentally predicated on the proactive cultivation of a legislative and institutional environment capable of absorbing the profound complexities, rapid velocity, and

stringent compliance requirements of international financial markets. Authorizing the exodus of national capital to establish commercial projects in foreign jurisdictions transcends mere administrative procedure or bureaucratic permission; it represents a profound philosophical, economic, and sovereign shift from a historical paradigm of comprehensive exchange restriction and state monopoly toward a modern doctrine of deliberate, strategic, and meticulously directed financial liberalization. In the Algerian context, this transformation has not occurred overnight; rather, it has materialized through a protracted, often non-linear trajectory of deep legislative reforms impacting both investment and monetary laws, ultimately culminating in the establishment of autonomous, highly competent regulatory bodies designed to manage, direct, and oversee these intricate transnational capital flows.

Subsection 1: Legislative Evolution from a Closed Economy to Directed Economic Openness

The macroeconomic policies adopted by the Algerian State since achieving independence have been characterized by profound, structural, and occasionally volatile metamorphoses, reflecting broader global ideological shifts and domestic developmental imperatives. In the nascent stages immediately following independence, the prevailing economic doctrine was deeply rooted in a centrally planned, command economy model. This paradigm heavily prioritized massive public sector industrial investment while maintaining an absolute, unyielding state monopoly over foreign trade, currency exchange, and the entirety of the banking sector (Ben Daida et al., 2005). Under this rigid socialist framework, the prevailing political will was explicitly codified in early investment legislations, most notably Law No. 63-277 and Ordinance No. 66-284, wherein the concept of outward private investment was not merely legally restricted but philosophically anathema to the legal discourse. This prohibition was fiercely justified by the prevailing macroeconomic ideology of the era, which perceived the exportation of domestic capital as tantamount to the hemorrhaging of national wealth and a direct threat to domestic industrialization efforts. Furthermore, the private sector during

this historical epoch was highly embryonic, lacking the financial critical mass, the structural sophistication, and the competitive acumen required to engage meaningfully with vast, well-capitalized international economic conglomerates (Maifi, 2015).

As the 1990s commenced, precipitated by acute macroeconomic crises, structural imbalances, and a severe, sustained contraction in global hydrocarbon prices that decimated state revenues, Algeria initiated a reluctant but structurally necessary trajectory toward systemic economic reform and a transition toward a market-oriented economy. The enactment of the Law on Money and Credit No. 90-10 on April 14, 1990, represented a critical inflection point and a fundamental rupture with the past (Sakak, 1992). This landmark legislation introduced the incremental liberalization of foreign trade, formally recognized and protected the principle of free private enterprise, and initiated the arduous restructuring of the banking sector by establishing an independent monetary authority (the Bank of Algeria) tasked with formulating monetary policy free from direct executive interference.

Despite a subsequent proliferation of investment laws aimed at modernizing the economy—including Legislative Decree No. 93-12, Ordinance No. 01-03, and Law No. 16-09—the Algerian legislator remained almost exclusively and myopically fixated on the promotion, regulation, and incentivization of domestic capital and inward foreign investment. The primary legislative objectives were entirely focused inwardly: the rapid absorption of massive youth unemployment, the development of dilapidated national infrastructure, and the urgently needed transfer of foreign technology, characterized by a persistent and conspicuous omission of regulatory frameworks addressing the outward deployment of capital by private Algerian entities (Al-Ayeb, 2021).

However, the relentless intensification of globalization, the digital revolution, and the shifting paradigms of international trade, coupled with Algeria's strategic geopolitical and economic maneuvering, rendered the continuation of this insular policy wholly untenable. Algeria's ratification of the Association Agreement with the European Union in 2005, its sustained,

complex efforts to accede to the World Trade Organization (WTO), and its more recent, highly active participation in the African Continental Free Trade Area (AfCFTA) necessitated a radical harmonization of domestic laws with international standards (Kassab & Seddiki, 2003). The legislator eventually recognized an undeniable economic axiom: sustainable economic development and true sovereign wealth creation require the incubation of domestic champions capable of projecting power and penetrating foreign markets. This modernized, globally conscious vision has been successfully crystallized in a new generation of sophisticated economic legislation, preeminently the Investment Law No. 22-18 and the Monetary and Banking Law No. 23-09.

Point 1: Investment Law 22-18 and the Approach to Building Local Competitive Capacities

Promulgated on July 24, 2022, Law No. 22-18 relating to Investment was meticulously designed to engineer a decisive, permanent rupture with historic bureaucratic impediments, establishing modernized, predictable foundations for investment freedom, administrative transparency, and operational efficiency (Official Gazette of the Algerian Republic, 2022a). While the explicit textual focus and primary application of this legislation are the regulation, facilitation, and incentivization of investments strictly within the Algerian territorial boundaries, it carries profound strategic implications that are intrinsically and causally linked to the future capacity of Algerian enterprises to successfully expand into international markets (Mariane, 2023).

The primary, overarching objective of Law 22-18 is to aggressively stimulate investment in high-value-added priority sectors, thereby driving the indispensable structural diversification of the economy away from its historical, highly vulnerable hydrocarbon dependency. To achieve this, the law introduces unprecedented, highly aggressive incentive frameworks. For instance, the "Structured Investments Regime," which is operationalized and governed by Executive Decree No. 22-302, grants substantial, multi-year fiscal exemptions spanning three to five years during the critical operational phase of a project (Official Gazette of the Algerian Republic,

2022b). These powerful incentives include total exemptions from the Corporate Income Tax (IBS) and the Tax on Professional Activity (TAP).

Perhaps most significantly for the long-term competitiveness of the Algerian market, the legal reforms accompanying this era effectively dismantled the highly restrictive and widely criticized 51/49% local ownership mandate for non-strategic sectors. Historically, this rule required majority Algerian ownership for all foreign investments, severely dampening FDI inflows. Under the new paradigm, this restriction has been lifted, fostering a vastly more dynamic, competitive, and globally integrated domestic market, though it notably remains in place for specifically delineated strategic sectors such as the pharmaceutical industry, energy and mining, transportation infrastructure, and national defense, as well as the importation of goods for resale in their original state (Baker McKenzie, 2022). Furthermore, the State officially repealed its controversial pre-emption right in cases involving the transfer of shares by or to foreign investors, opting instead for a more streamlined prior authorization mechanism reserved solely for transfers within strategic sectors (Baker McKenzie, 2022).

Additionally, Law 22-18 fundamentally restructured the institutional support apparatus by establishing the Algerian Investment Promotion Agency (AAPI) via Executive Decree 22-298, which effectively replaced the former National Investment Development Agency (ANDI). Operating as a highly empowered public administrative institution endowed with full legal personality and financial autonomy, and placed directly under the authority of the Prime Minister, the AAPI is legally mandated to manage a sophisticated digital investor platform. It serves as the sole, unified interlocutor for investors via its National One-Stop Shop, which is specifically tasked with handling large-scale investment projects exceeding 12 billion Algerian Dinars as well as all foreign investments (Official Gazette of the Algerian Republic, 2022c; AAPI, n.d.).

By creating this highly robust, supportive, and fiercely competitive domestic incubator environment, the Algerian legal framework deliberately facilitates the organic, accelerated growth of local enterprises. This

domestic fortification is the absolute, non-negotiable prerequisite for internationalization; only by achieving economies of scale, operational excellence, and competitive vigor at home can Algerian private entities successfully undertake the massive risks associated with outward foreign direct investment (Al-Ayeb, 2021).

Point 2: Monetary and Banking Law 23-09: Establishing Directed Financial Liberalization

The promulgation of Law No. 23-09 of June 21, 2023, encompassing the Monetary and Banking Law, constitutes a radical systemic transformation and a veritable legislative revolution within the Algerian financial ecosystem (Official Gazette of the Algerian Republic, 2023). Intended to definitively supersede the aging, increasingly obsolete Law on Money and Credit 90-10, this comprehensive legislation harbors highly ambitious objectives centered on entirely modernizing the banking system, drastically elevating its transparency, and significantly reinforcing the governance, supervisory role, and absolute independence of the Bank of Algeria in strict accordance with the latest global regulatory best practices (Bougatta, 2023; Central Bank Legislations Database, n.d.).

Crucially, from the perspective of transnational capital mobility, Law 23-09 functions as the definitive legislative cornerstone for outward investment, unequivocally resolving protracted, highly contentious legal ambiguities surrounding the freedom of capital transfer. Article 144 of the law represents a historic legal breakthrough, formally and explicitly enshrining the overarching principle of the freedom to transfer capital abroad (Bouktouf, 2022). While the law explicitly guarantees non-residents the unassailable right to repatriate their investment capital and all associated revenues—a standard requirement for attracting FDI—it concurrently, and more importantly for this analysis, explicitly grants resident entities (Algerian commercial enterprises) the legal right to transfer capital overseas to finance projects and investments that are complementary to their existing domestic operations (Carreau & Juillard, 1998).

Moreover, Law 23-09 exponentially expands the jurisdictional and operational purview of national regulatory bodies. Recognizing the rapid

digitalization and complexification of global finance, the law legalizes and sets the regulatory conditions for the creation of entirely novel financial entities tailored to the demands of a globalized economy. The Algerian legislator has expanded the legal framework to formally incorporate and regulate Islamic banking frameworks, accredit highly specialized investment banks, authorize digital banking institutions, sanction independent financial brokers, and officially authorize the establishment of localized exchange offices (Official Gazette of the Algerian Republic, 2023; Khoualfia, n.d.). This massive institutional modernization is absolutely vital, as it furnishes the sophisticated, diverse financial infrastructure necessary to seamlessly execute, trace, and monitor the highly complex cross-border financial transactions inherent in outward foreign direct investment. Complementing this trajectory, the Draft Finance Law for 2026 introduces supplementary, highly targeted fiscal facilitation mechanisms aimed at simplifying tax procedures and dismantling residual bureaucratic constraints on corporate capital mobility, ensuring the legislative intent of Law 23-09 is realized in practice (Algerian Ministry of Finance, 2026).

3- Second Section: Operational Controls and Legal Protection Mechanisms for Foreign Investment:

The profound legislative affirmation of the freedom to transfer and export capital does not, under any circumstances, equate to an abdication of sovereign economic oversight or a descent into unmanaged financial deregulation. Within the paradigm of modern, highly regulated liberal economics, independent state apparatuses are tasked with the critical, highly sensitive mandate of striking a delicate, dynamic balance: guaranteeing the economic freedom and capital fluidity necessary for entrepreneurial dynamism while preemptively neutralizing any systemic threats to macroeconomic stability. This entails, most notably, the aggressive defense of the national currency's value, the mitigation of imported inflation, and the absolute safeguarding of sovereign foreign exchange reserves from the catastrophic impacts of illicit capital flight (Al-Ayeb, 2021).

To execute this complex mandate, Algeria has architected a highly sophisticated, tripartite institutional matrix of integrated regulatory bodies,

each with distinct but complementary roles, responsible for the meticulous administration, strategic direction, and uncompromising surveillance of outward Algerian investment.

Point 1: Bank of Algeria (Central Bank): Post-Control and Regulatory Adjustment

The Bank of Algeria functions as the supreme, unassailable monetary authority of the State. Its independence, operational efficacy, and regulatory agility have been substantially augmented under the provisions of the newly enacted Law 23-09, which adopted a modern trust system for the role of the governor and his deputies to enhance governance (Official Gazette of the Algerian Republic, 2023; Lexis Middle East, 2023). The Central Bank is entrusted with a pivotal, multi-faceted macroeconomic mandate: combatting inflationary pressures, seamlessly managing the sovereign foreign exchange reserves, and administering the nation's highly calibrated exchange rate policy (Rennan, 2015).

In the specific, highly technical domain of outward investment, the Bank of Algeria wields profound regulatory and supervisory authority. It serves as the exclusive administrative entity authorized to draft, issue, and enforce the technical regulations and implementation directives that delineate the precise, granular conditions and operational modalities for capital transfers (Al-Ayeb, 2021). Reflecting its proactive, modernized regulatory stance, the Bank has recently promulgated a series of advanced regulations designed to modernize market services and ensure absolute financial integrity. Notable examples include Regulation 25-02, which strictly governs the licensing and operational parameters of payment service providers (Bank of Algeria, 2025a), Regulation 25-03 concerning the comprehensive protection of banking consumers and financial institution clients (Bank of Algeria, 2025b), and a sweeping, comprehensive update to the Banking Chart of Accounts designed to ensure absolute transactional transparency, traceability, and compliance with the new banking law (Bank of Algeria, 2025c). Furthermore, asserting its stringent control over the flow of foreign exchange and closing potential loopholes for illicit activities, the Bank issued Instruction No. 05-2025, which meticulously codified

exchange rights for travel and explicitly prohibited specific cash settlements to aggressively mitigate the pervasive risks of global money laundering (Bank of Algeria, 2025d).

With respect to outward Foreign Direct Investment specifically, the Bank of Algeria, operating meticulously through its General Directorate of Exchange, executes highly critical "ex-post control" (Contrôle a posteriori) mechanisms. The Bank is statutorily mandated to receive, audit, and scrutinize authenticated annual financial reports prepared by highly reputable, certified external auditors operating within the host country of the investment. This rigorous post-investment surveillance is designed to irrevocably verify the investor's strict legal compliance with the ongoing obligation to repatriate all dividends, yields, and profits to the domestic Algerian market. Concurrently, it allows the Central Bank to continuously evaluate the tangible, real-world impact of the foreign venture on the Algerian balance of payments, ensuring the investment remains a net positive for the national economy (Al-Ayeb, 2021).

Point 2: The Monetary and Banking Council: The Safety Valve and Prior Control

Operating as the primary legislative, regulatory, and strategic organ within the Bank of Algeria, the Monetary and Banking Council occupies a position of supreme macroeconomic importance (Mahmoudi, 2016). Historically, under previous legislative frameworks such as Laws 90-10 and 03-11, the Council suffered from a duplication of tasks, combining functions of monetary authority with day-to-day management. However, pursuant to the sweeping reforms of Law 23-09, the Council has been vested with clarified, highly expansive prerogatives, functioning as a truly independent authority. Its purview now encompasses the strategic orientation of national monetary policy, the enactment of binding banking regulations, and the formal accreditation of all emerging financial institutions, ensuring it can adeptly accompany the ongoing transformations in the banking environment (Official Gazette of the Algerian Republic, 2023; Khoualfia, n.d.; Algerian Chamber of Commerce and Industry, 2023).

Regarding the specific authorization of Algerian investment abroad, the Council exercises a fundamental, non-delegable, and exclusive jurisdiction: the application of rigorous "ex-ante control" (prior surveillance) and the pre-emptive, highly detailed examination of all capital export authorization requests (Al-Ayeb, 2021). There exists no legal avenue or loophole allowing any economic operator subject to Algerian law to initiate the exportation of investment capital without first securing explicit, formally reasoned, and documented approval from this Council (Al-Ayeb, 2021).

The Council's adjudicative process is the antithesis of a rubber-stamp administrative procedure. It is fundamentally predicated on an exhaustive, multi-variable macroeconomic and microeconomic appraisal of the proposed foreign project. The Council's highly complex decision matrices rely on essential determinants, which include, but are not limited to: the absolute financial solidity, historic performance, and structural robustness of the parent company within the local Algerian market; the enterprise's verifiable, demonstrable capacity to withstand fierce international competition in the target jurisdiction; and the critical degree to which the proposed foreign venture serves the overarching, strategic goals of national economic integration—such as successfully securing critical upstream industrial inputs, acquiring advanced technologies, or acting as a highly efficient conduit for sustainable foreign hard currency inflows (Al-Ayeb, 2021).

Point 3: The Banking Commission: Disciplinary Adjustment and Compliance

Operating alongside the Council and the Central Bank, the Banking Commission acts as an independent, highly specialized supervisory and disciplinary authority. Its governance framework, investigative powers, and disciplinary capabilities have been significantly fortified and expanded by the structural reforms instituted under Law 23-09, reinforcing its role as a premier supervisory authority (Bougatta, 2023; Algerian Chamber of Commerce and Industry, 2023).

The fundamental, day-to-day function of the Banking Commission is to ruthlessly police the operational compliance of all commercial banks, financial institutions, and newly sanctioned entities like payment service providers and financial intermediaries. It ensures their strict, unwavering adherence to prevailing laws and regulations, paying particular attention to the complex rules governing foreign exchange, the cross-border movement of capital, and the financing of foreign trade operations (Official Gazette of the Algerian Republic, 2023; Bank ABC, n.d.). By imposing strict prudential rules related to liquidity and solvency ratios, the Commission guarantees the absolute stability of the financial system (Khoualfia, n.d.). This stringent, persistent, and highly punitive oversight is indispensable for ensuring that formal banking channels remain highly secure, completely transparent, and wholly compliant with national macroeconomic policies, thereby acting as an impenetrable bulwark against the use of outward investment mechanisms as a disguised conduit for illicit capital flight or systemic money laundering (Zouaïmia, 2005).

Section II: Operational Controls and Legal Protection Mechanisms for Foreign Investment

The formal sovereign authorization allowing domestic capital to exit the national territory for the purpose of establishing long-term investment positions in highly variable foreign environments necessitates a remarkably exacting, granular operational framework. This framework must be sufficiently rigid and legally binding to prevent financial deviations, speculative abuse, and capital loss, while concurrently remaining flexible and commercially viable enough to ensure the realization of the anticipated economic yields that justified the capital export in the first instance. In this highly technical regard, Regulation No. 14-04, issued by the Bank of Algeria, serves as the foundational regulatory and reference document, prescribing the stringent, non-negotiable operational determinants for Algerian investments abroad (Official Gazette of the Algerian Republic, 2014; UNODC, 2014).

However, the imposition of internal monetary controls is only half the equation. Parallel to these domestic monetary safeguards, the inherent

unpredictability, volatility, and intensely political nature of the international economic landscape dictate an absolute, overriding necessity for robust, internationally recognized legal and judicial protection mechanisms. These international legal instruments are not merely theoretical safeguards; they are vital, active shields required for insulating Algerian investments from devastating, systemic, non-commercial risks—such as sovereign defaults, targeted expropriations, and discriminatory legislation—that are a persistent characteristic of operating in foreign host jurisdictions (Al-Ayeb, 2021).

Subsection 1: Monetary and Economic Determinants According to Regulation 14-04

Regulation No. 14-04 of September 29, 2014, clearly and unequivocally delineates the precise, restrictive conditions under which economic operators subject to Algerian law may legally transfer capital for the explicit, singular purpose of investing abroad (Official Gazette of the Algerian Republic, 2014). This landmark regulation is distinguished within the region by its extreme operational rigor and its systematic, deliberate limitation of absolute financial freedom. The overarching legislative intent is to hyper-rationalize outward capital flows, ensuring they are not driven by short-term speculative greed, but rather tethered inextricably and permanently to the long-term service and strategic enhancement of the Algerian national economy (Zoubiri, 2012).

Point 1: Personal and Objective Scope: Who is the Investor and What is the Investment?

From a procedural and personal jurisdiction standpoint, the Algerian monetary legislator deliberately and intelligently transcended traditional, often restrictive jurisprudential models that rely heavily on strict "nationality" criteria to define an eligible investor. Instead, anticipating the complex realities of modern corporate structuring, the regulation adopted a substantially more comprehensive, highly pragmatic metric: "subjection to Algerian law" (Baqqa, 2020). Consequently, any economic operator—whether entirely domestically owned or operating as a joint venture with foreign capital within Algeria—possesses the legal standing to submit an outward investment application, provided they are formally incorporated,

fully registered, and actively operating under the strict ambit of Algerian commercial law.

On the objective front, however, the regulatory text is unapologetically restrictive. It severely and explicitly confines the permissible scope of outward financial operations exclusively to the vehicle of "Foreign Direct Investment" (FDI). This explicitly, legally excludes all forms of portfolio investments, speculative equity trading on foreign bourses, high-frequency currency trading, and any other forms of indirect or highly liquid investment (Abu Qahf, 1989). The economic rationale underpinning this draconian restriction is deeply tied to the current evolutionary stage and risk tolerance of domestic financial markets. The Algerian financial ecosystem currently lacks the profound institutional liquidity, the structural maturity, and the massive foreign exchange buffers requisite to safely facilitate high-velocity, speculative cross-border financial operations without severely jeopardizing domestic monetary stability and draining the treasury (Al-Ayeb, 2021).

To legally operationalize and empirically verify the "direct" and lasting nature of the investment, Regulation 14-04 imposes a strict, numerical equity threshold: the Algerian investor must legally acquire and continuously hold a minimum of 10% of the total share capital or the highly influential voting rights in the targeted foreign entity. This high threshold legally guarantees that the Algerian entity holds a lasting, significant management interest and operational influence over the foreign venture, fundamentally distinguishing the action from a passive, highly volatile speculative position (Al-Ayeb, 2021).

Point 2: The Principle of Complementarity and Self-Financing

Beyond ownership thresholds, one of the most consequential and economically significant stipulations of Regulation 14-04 is the absolute requirement of "complementarity." The Monetary and Banking Council will only authorize a foreign investment if it can be empirically proven that the venture acts as a direct, highly complementary, and synergistic extension of the productive activities the operator is already successfully executing within Algeria. Under this legal doctrine, outward investment is

conceptually and legally framed not as an exit strategy for domestic capital or a pivot to unrelated foreign industries, but strictly as the natural, geographic, and logistical extension of localized corporate success designed to feed back into the domestic operation (Al-Ayeb, 2021).

Financially, the regulation establishes an immensely stringent, virtually unparalleled safeguard: the legal obligation for the economic operator to finance the entirety of the foreign venture utilizing their own "self-generated resources" denominated in hard currency. Crucially, these funds cannot be purchased from the central bank; they must be primarily and verifiably derived from the operator's own highly successful export activities (Mariane, 2023). This absolute self-financing mandate functions as a brilliant, dual-action macroeconomic safety valve. First, it acts as the ultimate corporate stress test, irrefutably proving the investor's independent financial solvency, their mastery of international trade, and their global market viability prior to any outward investment. Second, and vastly more importantly from a sovereign risk perspective, it completely and entirely insulates the State's central foreign exchange reserves from depletion. Because the investor is utilizing currency they have independently generated and captured in international markets through actual exports, they are not drawing down the national treasury to fund foreign acquisitions (Mariane, 2023).

Point 3: Tax Transparency of the Host Country and the Inevitability of Repatriating Returns

To combat the pervasive threats of global financial malfeasance, tax evasion, and the illicit sheltering of capital, the regulation mandates strict geographic restrictions. The targeted host nation must not be classified or blacklisted as a tax haven or non-cooperative jurisdiction by recognized international monitoring bodies. The host state must possess a highly transparent fiscal regime and must demonstrate a verifiable track record of active cooperation in the international exchange of banking and tax information, thereby severely mitigating the risks of corporate tax evasion and the laundering of illicit proceeds (Hassouna & Rihani, 2018).

Ultimately, the paramount, overriding macroeconomic objective of the entire outward investment framework is the "Repatriation of Profits." The Algerian regulation imposes an uncompromising, legally binding obligation upon the investor to repatriate all dividends, net profits, interest, and eventual liquidation proceeds generated by the foreign enterprise back to Algeria through officially accredited, highly monitored banking channels "without any delay" (Ben Aissa & Arabi, 2021). The legal framework delegates the execution of these transfers to accredited banks, ensuring that the economic lifeblood generated abroad is swiftly injected back into the domestic Algerian economy, thereby fulfilling the ultimate promise of the outward investment strategy (KPMG, 2023).

Subsection 2: Legal Protection Mechanisms and Dispute Settlement in the International Environment

It is a well-established legal and economic axiom that cross-border economic operations, regardless of their financial soundness, are inherently and perpetually exposed to unique, highly destructive vulnerabilities collectively termed "non-commercial risks" or sovereign political risks. These encompass devastating sovereign acts such as outright expropriation, creeping nationalization, targeted regulatory discrimination, sudden revocation of operating licenses, or abrupt and highly detrimental legislative reversals. Because these hazards are entirely dictated by the unilateral political will and sovereign authority of the host state, they cannot be mitigated, predicted, or neutralized by relying solely on the domestic legal framework or the economic strength of the capital-exporting nation (Alla, 2008). To secure massive Algerian assets deployed abroad, the State relies on constructing a robust, impenetrable architecture of international legal protections.

Point 1: Bilateral and Multilateral International Agreements

Recognizing the limits of its own territorial jurisdiction, Algeria has proactively and aggressively sought to engineer a legally secure, highly predictable environment for its outward investors by weaving a dense, comprehensive global network of Bilateral Investment Treaties (BITs) concerning the reciprocal promotion and protection of investments

(UNCTAD, n.d.). These legally binding international instruments, governed by public international law, afford the Algerian investor a vital, highly potent suite of immunities and guarantees when operating in the host jurisdiction, most notably including:

- **Fair and Equitable Treatment (FET):** This is the foundational, most frequently invoked principle in international investment law. It strictly compels the host state to maintain a stable, highly predictable, and completely transparent legal and administrative environment. It acts as a blanket prohibition against arbitrary, grossly unfair, or highly discriminatory administrative actions, ensuring the Algerian investment is not targeted by vindictive local politics (Al-Ayeb, 2021).
- **Most-Favored-Nation (MFN) Clause:** This critical, highly strategic mechanism ensures that Algerian capital is never subjected to competitive disadvantages in foreign markets. It legally guarantees that any superior legal privilege, tax break, operational benefit, or favorable regulatory treatment granted by the host state to an investor from any third country is automatically, instantly, and unconditionally extended to the Algerian investor operating in that same market (Al-Ayeb, 2021).
- **Protection Against Expropriation:** Mirroring the robust domestic protections offered to foreign investors within Algeria under Article 10 of Law 22-18—which ensures projects will not be subject to arbitrary administrative exploitation—BITs strictly prohibit the uncompensated expropriation or arbitrary dispossession of private property abroad (Kameli, 2023). In exceptional circumstances where expropriation is deemed an absolute, unavoidable necessity for a legitimate public purpose, the treaties strictly mandate that the host state provide prompt, adequate, and highly effective financial compensation to the Algerian entity, calculated at fair market value (Nawara, 2020).
- **Guarantee of Free Transfer:** Overcoming localized capital controls or sudden currency restrictions imposed by a host state facing its

own economic crises, these international agreements explicitly, legally guarantee the Algerian investor the unhindered, absolute right to repatriate their yields, profits, and liquidation proceeds back to Algeria in a freely convertible hard currency, thereby reinforcing the domestic repatriation mandates of Regulation 14-04 on the international stage (Al-Ayeb, 2021).

Point 2: International Commercial Arbitration and Bypassing National Judiciary (ICSID)

Given the inherent, historically justified, and profound apprehension that foreign investors harbor regarding the impartiality, efficiency, and political independence of domestic courts in a host state—particularly in high-stakes disputes involving the state apparatus itself—Algeria has emphatically and strategically embraced international commercial arbitration as the ultimate, non-negotiable judicial safeguard (Fetissi, 2019).

A monumental landmark step in the realization of this protective strategy was Algeria's formal ratification of the 1965 Washington Convention, which established the International Centre for Settlement of Investment Disputes (ICSID) under the auspices of the World Bank (Presidential Decree No. 95-346, 1995). The immense, game-changing legal leverage provided by ICSID lies in its provision of direct legal standing to the private corporate investor. An Algerian corporation facing unlawful expropriation, discriminatory harassment, or a fundamental breach of treaty by a sovereign host state is empowered to initiate binding arbitration proceedings directly against that sovereign state before a neutral, highly specialized international arbitral tribunal. This structural legal bypass completely eliminates the necessity of relying on the slow, highly politicized, and often diplomatically fraught mechanism of state-to-state diplomatic protection, empowering the Algerian corporation to defend its own financial interests on the global stage (Kebaili, 2012).

Furthermore, to ensure that arbitral awards rendered by these tribunals in favor of Algerian investors are not merely symbolic, unenforceable legal victories, Algeria is a highly active signatory to the 1958 New York

Convention on the Recognition and Enforcement of Foreign Arbitral Awards (UNCTAD, n.d.). This powerful treaty ensures that Algerian entities can successfully enforce arbitral judgments and legally seize commercial assets of the defaulting host state across almost all major global jurisdictions, cementing the tangible, absolute security of their foreign capital deployments and ensuring that rogue state actions are met with severe financial consequences.

4. CONCLUSION

Based on this exhaustive, multi-layered analytical dissection of the rapidly evolving legislative, monetary, and institutional landscape, it is unequivocally clear that the Algerian legislator has fully internalized the profound strategic imperative of liberalizing outward Algerian investment. Far from being viewed through the antiquated lens of an economic hemorrhage or a threat to domestic stability, the outward deployment of capital by highly capable, globally competitive domestic enterprises is now legally and philosophically recognized as a vital, indispensable mechanism for achieving sustainable, long-term integration into the upper echelons of the global economic macrostructure.

Through a paradigm-shifting transition—moving decisively away from decades of dogmatic, blanket socialist prohibitions toward the explicit, highly formalized codification of the freedom of capital transfer under Article 144 of the monumental Monetary and Banking Law No. 23-09—the Algerian State has established a highly flexible, historically unprecedented legislative foundation. This modernized framework effectively empowers domestic corporate champions. These entities, having been carefully nurtured, incentivized, and strengthened locally through the powerful tax holidays and deregulation mechanisms of Investment Law No. 22-18 and the supportive apparatus of the AAPI, are now legally authorized to project their competitive capacities into the most lucrative international markets.

However, the legal analysis conclusively demonstrates that this financial liberalization is neither absolute, reckless, nor unstructured. It is brilliantly subjected to highly sophisticated, deeply integrated regulatory constraints that successfully engineer a meticulous, sustainable balance

between the legitimate, profit-seeking international liberties of the private sector and the overriding, non-negotiable macroeconomic sovereignty of the State. This critical equilibrium is masterfully operationalized through the dual, interlocking mechanisms of extreme ex-ante screening and rigorous ex-post surveillance, orchestrated collaboratively by the Monetary and Banking Council, the Banking Commission, and the Bank of Algeria under the strict, uncompromising parameters of Regulation 14-04. By legally mandating self-financing strictly through export-derived hard currency, prohibiting speculative portfolio investments, and enforcing the immediate, compulsory repatriation of all foreign yields under threat of severe sanction, the legal framework guarantees that outward investment acts exclusively as a massive force multiplier for domestic reserves rather than a vulnerable conduit for capital flight.

Finally, to maximize the ultimate efficacy, longevity, and security of this outward economic projection, the State has proactively and intelligently reinforced its domestic regulatory matrix with an impenetrable, internationally recognized shield of legal protections. Through highly strategic, expansive adherence to Bilateral Investment Treaties and the absolute empowerment of private investors via direct ICSID arbitration, the Algerian legal system has successfully constructed a comprehensive, end-to-end legal architecture. This architecture not only legally permits but actively defends and protects the globalization of the Algerian enterprise against the unpredictable volatility of foreign sovereign risks. Future legislative and policy iterations should concentrate on continuously refining the administrative agility of the Bank of Algeria's approval processes, expanding the geographic density of Algeria's BIT network into emerging markets in Africa and Asia, and fostering the continued growth of a domestic banking sector capable of financing the increasingly global ambitions of the Algerian economy.

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