Freedom of Entrepreneurship in the Algerian Constitution and Its Manifestations in Knowledge Economy Support Policies

حرية المقاولة في الدستور الجزائري و تجلياتها في سياسات دعم اقتصاد المعرفة

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Abstract:

This study examined the freedom of entrepreneurship in the Algerian Constitution and its manifestations within policies supporting the knowledge economy, with a particular focus on the effectiveness of these policies in fostering entrepreneurial spirit and innovation. The research problem is centered on the question of how constitutional guarantees of freedom of economic initiative integrate with public policies that support knowledge-based enterprises in Algeria. The study adopted both analytical and descriptive approaches, through an examination of constitutional provisions and the legal framework governing entrepreneurship, startups, innovation, and the protection of intellectual property, in addition to identifying the main governmental policies directed toward the knowledge economy. The findings indicate that the Algerian Constitution provides a strong legal foundation guaranteeing freedom of entrepreneurship, while supportive economic policies contribute to enhancing innovation and developing startups. However, certain regulatory and financial obstacles continue to limit the full effectiveness of these policies. The study concludes that the success of supporting knowledge-based entrepreneurship requires the convergence of constitutional guarantees with clear strategies aimed at facilitating innovation, improving access to financing, and adopting modern technologies.

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Keywords: Entrepreneurial Freedom -Algerian Constitution -Knowledge Economy -Innovation -Startups - Public Policies.

الملخص :

نافشت هذه الدراسة حرية المقاولة في الدستور الجزائري وتجلياتها في سياسات دعم اقتصاد المعرفة، مع التركيز على مدى فعالية هذه السياسات في تعزيز روح المبادرة والابتكار. تنطلق الإشكالية من التساؤل حول كيفية تكامل الضمانات الدستورية لحرية المبادرة الاقتصادية مع السياسات العمومية الداعمة للمقاولات المعرفية في الجزائر. اعتمد البحث على منهجين تحليلي و وصفي، حيث تمت دراسة النصوص الدستورية والقوانين المنظمة للمقاولاتية و للمؤسسات الناشئة والابتكار وحماية الملكية الفكرية، مع رصد أهم السياسات الحكومية الموجهة لاقتصاد المعرفة. أظهرت النتائج أن الدستور الجزائري يوفر قاعدة قانونية قوية تضمن حرية المقاولة، بينما تساهم السياسات الاقتصادية الداعمة في تعزيز الابتكار وتطوير المؤسسات الناشئة، إلا أن بعض العقبات التنظيمية والتمويلية لا تزال تحد من الفاعلية الكاملة لهذه السياسات. وتخلص الدراسة إلى أن نجاح دعم المقاولات المعرفية يتطلب تضافر الضمانات الدستورية مع استراتيجيات واضحة لتيسير الابتكار وتمويل المشاريع وتبني التكنولوجيات الحديثة.

الكلمات المفتاحية:
حرية المقاولة- الدستور الجزائري- اقتصاد المعرفة- الابتكار- المؤسسات الناشئة -السياسات العمومية

Introduction:

Freedom of entrepreneurship is considered one of the fundamental principles guaranteed by the Algerian Constitution, representing a cornerstone in building a diverse and efficient national economy based on individual initiative

and the spirit of innovation. Freedom of entrepreneurship is defined as the legal right that allows every citizen to engage in economic activity—whether commercial, industrial, or service-oriented—within a legal framework that regulates economic relations and ensures the protection of the public interest and fair competition.

In the contemporary Algerian context, freedom of entrepreneurship has gained a new dimension linked to the knowledge economy, which represents a modern economic model based on innovation, information, and technology as the foundation for growth and development. The knowledge economy is not limited to producing traditional goods and services; it emphasizes creativity, scientific research, technology transfer, and intellectual property protection, making support for startups and innovative enterprises a fundamental pillar for achieving economic and social development.

The connection between constitutional guarantees for freedom of entrepreneurship and public policies supporting the knowledge economy reflects Algeria's contemporary challenges, particularly in areas such as stimulating innovation, project financing, and market regulation in a way that balances freedom and economic responsibility. Understanding this relationship allows for an assessment of the effectiveness of government policies in creating an environment conducive to entrepreneurs and innovators,

ensuring the sustainability of knowledge-based projects within regional and international competition.

Importance of the Topic:

The importance of this topic lies in linking constitutional guarantees to the freedom of economic initiative and entrepreneurship with the effectiveness of modern economic policies. This contributes to supporting startups, fostering innovation, and achieving sustainable development, providing a scientific basis for policymakers to develop better strategies for supporting knowledge-based enterprises in Algeria.

Research Problem:

How do constitutional guarantees ensure freedom of entrepreneurship in Algeria, and what are its manifestations in policies supporting the knowledge economy?

Sub-Questions:

1. What are the constitutional texts and laws regulating freedom of entrepreneurship in Algeria?
2. How is this freedom reflected in public policies aimed at supporting the knowledge economy?
3. What is the impact of these policies on developing innovation and startups?

Methodology:

The research relies on descriptive and analytical approaches to study constitutional texts and laws related to entrepreneurship and innovation, and to analyze the impact of

this freedom on Algeria's policies supporting the knowledge economy.

Study Structure:

Chapter One: Freedom of Entrepreneurship in Algerian Constitutions

Section One: Constitutional Foundations of Freedom of Entrepreneurship

Freedom of entrepreneurship is one of the fundamental principles of the modern Algerian economy. It is a right guaranteed by the Constitution for every citizen to engage in commercial or industrial activity in accordance with existing laws and regulations, while taking into account the public interest and the national economic system. The Algerian Constitution represents the primary legal reference defining the scope of this freedom and its regulations.

1. **Recognition of Economic Initiative in Successive Algerian Constitutions**

It should be noted that economic freedom in Algeria went through two important stages:

- **First Stage: Directed Economy or Welfare State (1962–1988):**

After independence, Algeria adopted a socialist system with direct state intervention in economic activity. This phase was characterized by:

a. **State as Economic Supporter[1]:** In line with the philosophy of collective ownership of the means of

production, the state became the producer of goods and services. This led to the establishment of a large portfolio of public economic sector institutions, and the entrepreneurial role of the state was reflected through various forms such as self-managed enterprises, socialist institutions, or national companies, while retaining liberal models inherited from the French system through industrial and commercial public enterprises.

This approach was accompanied by legal texts and nationalizations, such as Order 71/74 concerning socialist management of enterprises and Order 75/23, the basic law for socialist economic enterprises. As a result, state intervention in the economy increased significantly.

b. **Strict Regulation of Private Economic Activity:** Regulatory barriers marginalized the private sector from participating in economic activity. This was evident in three key points:

- Neutralizing policies for individuals and the private sector, as the legal system at the time did not recognize economic freedom or the freedom of private initiative and competition.
- Adoption of public monopolies in various sectors, including banking, utilities, insurance, and foreign trade.

- Restrictions on private investment, as Law 66/284 allowed private investment only in secondary economic activities, not vital ones.

There was also no recognition of price freedom based on supply and demand; instead, prices were subject to individual administrative regulation.[2]

- **Second Stage: Opening to a Market Economy (Post-1986 Crisis):**

This stage followed the crisis in 1986, the collapse of oil prices, and rising Algerian debt. It was characterized by two major features:[3]

a. **Reconsideration of Public Economic Sector Policies:** Due to the expansion of the public economic sector portfolio and the lack of management freedom, a shift from a supervisory state to a contributory state was adopted, redefining the relationship between public authority and public economic enterprises[4].

b. **Legal Deregulation:** The adoption of regulatory economic law marked a transition from rigid law to a pragmatic, incentive-based legal framework, replacing authoritarian deterrence with flexible, adaptive, and consultative mechanisms involving relevant stakeholders[5].

Until the 1989 Constitution, there was no explicit or implicit recognition of private initiative in the economic sphere. However, the 1996[6] constitutional amendment explicitly

recognized the right to industrial and commercial activity in Article 37: *"Freedom of commerce and industry is guaranteed and exercised within the framework of the law."* This coincided with the shift toward a market economy and the cessation of state intervention in economic activity, which had negatively impacted social, political, and security life.[7]

This constitutional recognition of industrial and commercial freedom grants strong constitutional protection against legislative and executive authorities. In line with the move toward a market economy, the Algerian Constitution further emphasized economic freedom, changing terminology from "freedom of industry and commerce" to "freedom of investment and commerce" under Article 43 of the 2016 constitutional amendment, opening investment opportunities to all individuals within the framework of existing laws.[8]

2. Freedom of Entrepreneurship in the 2020 Constitutional Amendment and Its Implications

The 2020 constitutional amendment recognized the principle of freedom of entrepreneurship in Article 61: *"Freedom of commerce, investment, and entrepreneurship is guaranteed and exercised within the framework of the law."*[9]

This enshrines the right to trade, invest, and establish businesses as a constitutional mechanism to achieve a productive economy, create wealth, foster development, and generate employment through small, medium, or micro-

enterprises, moving away from the rentier economy dependent on oil revenues.

1. Scope of Freedom of Entrepreneurship:

Freedom of entrepreneurship includes the right to access any professional activity and to freely engage in it. Free initiative refers to an economic system governed by market forces rather than government intervention, often called a free-market system. Private sector actors are granted economic freedom to make decisions on what to buy and sell, the level of labor or risk they undertake, and how to participate in commercial activity.[10]

Thus, freedom of entrepreneurship encompasses the right to establish a business of one's choice, select its form, staff, and location within legal limits, and freely operate, manage, and exploit the business within the legal framework.

It is worth noting that the relationship between freedom of entrepreneurship and freedom of industry and commerce has been debated in French legal doctrine. Initially, some scholars considered freedom of entrepreneurship part of freedom of industry and commerce, while others argued its scope extends to include both. The French Council of State, for years, regarded freedom of entrepreneurship as an aspect of industry and commerce freedom until 2001, when a decision in summary proceedings recognized freedom of industry and commerce as part of freedom of entrepreneurship.[11]

2- Results Arising from the Constitutionalization of Freedom of Entrepreneurship:

The recognition of the principle of freedom of entrepreneurship, which the constitutional legislator included along with the principle of freedom of investment and commerce, entails two highly significant outcomes:

The first is the limitation of administrative powers over individual or private economic activities, where public authorities are prohibited from intervening to restrict them without legal justification. The second outcome concerns the abstention of public authorities from engaging directly in economic activities that could be undertaken by the private sector or individuals, unless there is a justification related to the inadequacy of private initiative or considerations of public interest.[12]

Third: The Status of Freedom of Entrepreneurship in Constitutional Objectives of Development and Innovation

Freedom of entrepreneurship is one of the modern constitutional pillars that intersects with the goals of economic development and innovation, as it serves as a tool to achieve sustainable growth and stimulate economic creativity. Its importance in the constitutional objectives of development and innovation can be highlighted through the following points:

1. **Freedom of Entrepreneurship as a Constitutional Value Supporting Development:**

It enables individuals to establish and operate economic projects without arbitrary restrictions and within the limits imposed by law[13]. This contributes to expanding national productive capacities, creating wealth and job opportunities, diversifying the economy, and reducing dependence on rentier sectors, thereby enhancing the economic function through equal opportunities.

2. **Role of Freedom of Entrepreneurship in Encouraging Innovation:**

Innovation is closely linked to the existence of a constitutional and legal environment that protects the freedom of private initiative, legitimate risk-taking, and fair and free competition. The more constitutionally guaranteed freedom of entrepreneurship is, the greater the capacity of entrepreneurs to develop new solutions, adopt modern technology, and invest in research and development. In this way, innovation becomes an indirect constitutional goal achieved through the protection of this freedom.

3. **Freedom of Entrepreneurship as an Instrumental Constitutional Principle:[14]**

This means considering freedom of entrepreneurship as a tool and mechanism enabling the state to achieve higher constitutional objectives, and therefore its significance is determined according to its function, not its formal nature.[15]

This characterization entails a set of legal features, including:

- **Functional, Not Absolute Nature:** Freedom of entrepreneurship is not protected as an abstract liberty but because it produces positive economic effects that serve higher constitutional objectives, and its protection is linked to its developmental function.
- **Susceptibility to Restriction and Regulation:** Being an instrumental principle, it does not enjoy absolute protection and is limited according to the requirements of development, state economic policy, and the public economic order.[16]
- **Subject to Constitutional Balance:** Hence, part of this principle may be partially sacrificed if it conflicts with sustainable development, social justice, public interest, etc.[17]

Section Two: Controls on Exercising Freedom of Entrepreneurship

First: Legislative Controls Related to Protecting the Public Economic Order

Referring to Article 61 of the 2020 constitutional amendment, it delegates to legislation the regulation of exercising this freedom. Therefore, the legislative authority holds the primary and exclusive competence to establish the legal framework for practicing this freedom. Parliament may impose various restrictions on exercising this freedom, which take several forms, including simple activity regulation, prior notification, prior authorization, legal monopolies, etc.

1. **Activity Regulation:** This is the simplest and lightest form of restriction on freedom of entrepreneurship, whereby the legislator sets guidelines and regulations framing entry into certain activities and enterprises and how they are conducted.
2. **Prior Notification:** This means that owners of economic activities and entrepreneurs are prohibited from practicing certain activities without notifying the relevant legally designated authorities to ensure compliance with legal texts. For example, Order 16-09 dated 03/08/2016 on investment promotion abolished the requirement for prior approval in private investment projects and replaced it with a notification system to the National Agency for Investment Development, applicable only to investments benefiting from this law.[18]
3. **Prior Authorization:** This represents the most stringent restriction on freedom of entrepreneurship and economic freedom in general, requiring the entrepreneur to obtain approval from the competent administrative authority before starting the activity, in the form of a license or approval depending on the type of economic activity. This applies to industrial, developmental, health, medical, financial, and major commercial activities such as banks and insurance companies. The licensing system is justified by the

need to protect the public economic order, ensure the quality of professional activity, protect consumers, and comply with environmental and health regulations.[19]

4. **Legal Monopolies:** These are mechanisms by which the state reserves certain economic activities, preventing private individuals or entities from practicing or competing in them due to the strategic or sovereign nature of the activity, such as currency issuance (exclusively by the Bank of Algeria), arms manufacturing and importation (monopolized by the Ministry of National Defense)[20], or ensuring continuity of public services. The establishment of legal monopolies is exclusively within the legislator's authority[21].
5. **Prohibition or Ban:** This refers to depriving natural or legal persons of practicing a specific economic activity or conduct, either fully (total prohibition) or partially (restricted to certain circumstances, locations, or times). This represents the strictest restriction on freedom of entrepreneurship, as it affects the core of initiative freedom. Legislators resort to prohibition to achieve specific objectives, including protecting public order, security, health, public morals, environmental protection, and safeguarding the national economy against activities that threaten economic balance.

Second: Regulatory Restrictions on Freedom of Entrepreneurship Related to the Market

While legislative authority holds exclusive competence over regulating freedom of entrepreneurship, regulatory authority is not entirely excluded from this competence, as it plays a role in protecting public order as determined by legislative texts.[22]

Third: Controls Related to the Modern Economic Environment (Intellectual Property – Data – Digitalization)

Structural transformations in the contemporary economy, particularly with the emergence of the digital economy and knowledge economy, have redrawn the boundaries of practicing freedom of entrepreneurship. This freedom is no longer solely linked to investment and production but is governed by new legal constraints imposed by intangible assets and digital domains.

1. **Intellectual Property Controls and Their Impact on Freedom of Entrepreneurship:**

Intellectual property rights are among the most prominent modern restrictions on freedom of entrepreneurship, balancing the encouragement of innovation with limitations on competition[23]. This is reflected through:

- **Patents:** Grant the holder temporary exclusive exploitation rights[24], restricting competitors' entry into the protected market.

- **Trademarks and Trade Names:** Prevent others from using similar or misleading marks, protecting consumers and preventing unfair competition.
- **Copyright and Related Rights:** Extend to software and databases, imposing restrictions on reuse or reproduction in digital entrepreneurial activities.[25]

Thus, intellectual property represents a legitimate restriction on freedom of entrepreneurship, aiming to protect innovation and ensure fair competition; excessive protection, however, may become a monopolistic tool that hinders economic initiative.

2. **Data Usage Controls in Entrepreneurial Activity:**

Data has become a strategic economic resource, generating new legal constraints limiting freedom of entrepreneurship in data collection and use, including:

- **Personal Data Protection:** Entrepreneurs must respect principles of legality, purpose limitation, proportionality, and avoid excessive data use[26]. Law 18-07 on the protection of natural persons in personal data processing imposes legality and authorization requirements for data processing.
- **Obligations on Digital Economic Actors:** Concerning data security and preventing leaks or misuse.[27]

- **Restrictions on Cross-Border Data Transfers:** In some cases, to protect digital sovereignty or national security.[28]

Hence, freedom of entrepreneurship no longer includes absolute freedom in data use but is linked to legal and ethical responsibilities, reflecting the law's role in protecting digital rights.

3. **Digitalization and E-Commerce Controls:**

Digitalization introduced new models of entrepreneurship, requiring legislative regulation to prevent legal disorder. These controls include:

- **E-Commerce Regulation:** Conditions for practicing activities, identifying suppliers, and ensuring transaction transparency.[29]
- **Consumer Protection:** Duty to inform, right of withdrawal, and secure payment methods.
- **Platform Responsibility:** Regarding content or transactions conducted, limiting digital entrepreneurial freedom within legal accountability.

These controls show that freedom of entrepreneurship in the digital environment is conditioned on compliance with complex technical and legal rules[30].

Fourth: Limits of State Intervention Between Encouragement and Protection on One Hand, and Oversight and Intervention on the Other

State intervention in entrepreneurship is complex, requiring a delicate balance between free-market logic and public interest.

1. **State Role in Encouraging and Protecting Freedom of Entrepreneurship:**

The state's incentive function is reflected through:

- Improving the business climate by simplifying administrative procedures and reducing bureaucratic obstacles.
- Financial and tax support for projects, especially startups and small to medium enterprises.
- Entrepreneurial support through incubators, business accelerators, and public agencies promoting economic initiative.
- Protecting investments from non-economic risks and ensuring legislative stability.

This role is essential to actualize freedom of entrepreneurship, especially in developing economies.

2. **State Role in Oversight and Intervention:**

The state retains the right to intervene when public interest requires, including:

- Monitoring compliance with competition rules and preventing monopolistic practices.
- Regulating prices or strategic/social sectors.

- Imposing environmental and social obligations on enterprises to limit economic freedom in favor of sustainable development.

Such intervention must remain:

- Legitimate in legal basis,
- Proportional to the intended objective,
- Temporary once the reasons for intervention cease.

3. **Legal Issue of Balancing State Intervention:**

The issue lies in defining the boundary between legitimate intervention, protecting the public economic order, and excessive intervention that may undermine the essence of freedom of entrepreneurship. Here, the role of constitutional and administrative courts is to monitor the legality of state intervention and ensure the core of economic freedom is not violated.

Chapter Two: Manifestations of Freedom of Entrepreneurship in Policies Supporting the Knowledge Economy in Algeria

Section One: Factors Driving Algeria's Transition to a Knowledge Economy

First: Definition of Knowledge Economy:

The Organisation for Economic Co-operation and Development (OECD) defines the knowledge economy as:

"An economy based on the production and intensive use of knowledge, including information technology, skills, and competencies, to achieve sustainable economic growth."[31]

Carl Freeman (1991) defines the knowledge economy as:

"An economy based on the formation of intellectual capital and investment in knowledge for productivity and services, rather than relying on natural resources or traditional labor."[32]

Thus, the knowledge economy is an economy that relies on the production, use, and distribution of knowledge as a primary source of value and wealth, where knowledge, innovation, and technology play a central role in enhancing economic growth and achieving competitiveness.[33]

In this type of economy, human skills and scientific and technical knowledge become the most important capital instead of natural resources or traditional financial capital. The knowledge economy focuses on generating new ideas, transferring knowledge, continuous innovation, and employing modern technology to improve productivity and services.

Second: Factors Driving the Shift Towards a Knowledge Economy in Algeria

Algeria's transition to a knowledge economy cannot be understood apart from a set of interrelated factors, including national policies, educational reforms, scientific research, legislation, technology, and partnerships between different sectors.

1. **National Strategic Directions:** These form the general framework that determines the path of

transition towards a knowledge economy. The Algerian state has sought, through development plans and educational policies, to reduce reliance on traditional natural resources, while focusing on promoting innovation and developing human capital, in line with the requirements of the global knowledge-based economy.[34]

2. **Higher Education Reforms:** These play a pivotal role in this process. Algerian universities have introduced new programs aimed at qualifying students according to the needs of the modern labor market, focusing on scientific and technical training linked to applied research. University business incubators have also served as practical mechanisms to support entrepreneurship among students and graduates, facilitating the transformation of academic knowledge into viable economic projects, thereby enhancing the effectiveness of higher education as a driver of the knowledge economy.[35]
3. **Promoting Scientific Research and Innovation:** This is an essential element in the transition to a knowledge economy. Developing research infrastructure within universities and research centers and encouraging applied projects are necessary to transform theoretical knowledge into innovative products and services. Here, the critical role of

technology transfer policies, which link research outcomes to economic sectors, ensures the practical utilization of innovations.

4. **Legislation Supporting Intellectual Property:** This contributes to creating an environment conducive to innovation. Protecting inventions and new ideas provides legal guarantees that encourage creators and entrepreneurs to invest in knowledge and transform it into economic value, which is a key element for the success of a knowledge economy.
5. **Importance of Public-Private Partnerships:** Linking universities with economic institutions enhances higher education's ability to meet market requirements and encourages the development of joint projects that support innovation and entrepreneurship. This integration contributes to creating a sustainable network of knowledge and innovation, strengthening Algeria's competitiveness in the global economy.

Finally, the use of technology and digital information forms a fundamental basis for the transition to a knowledge economy. The spread of information and communication technology and the development of digital infrastructure in universities and research centers enhance the management and transfer of knowledge more quickly and effectively, and contribute to integrating educational and research processes with the demands of the modern economy.

Section Two: Legal Manifestations of Enshrining the Principle of Freedom of Entrepreneurship in Policies Supporting the Knowledge Economy in Algeria

Supporting the knowledge economy in Algeria is a fundamental pillar for enhancing freedom of entrepreneurship, as the state works to provide a legislative and regulatory environment that allows emerging and innovative enterprises to grow and innovate. This freedom is embodied through a set of laws and policies aimed at facilitating investment, protecting creators' rights, and promoting technical and digital innovation.

The legislative system is one of the essential elements that create an enabling environment for freedom of entrepreneurship, especially in the context of transition to a knowledge economy, which relies on innovation, technology, and value creation through knowledge. Contemporary Algerian legislation aims to build a legal framework that enables entrepreneurs and start-ups to grow and helps reduce obstacles to creating and developing knowledge-based enterprises.

First – Laws Related to Start-ups:

1. **Executive Decree 20-254 on Start-ups:**

In recent years, Algeria has focused notably on regulating and supporting start-ups through the development of a legal framework and organizational procedures that define these entities legally, facilitate their establishment and operation,

and highlight the legal system for start-ups in Algeria. This system was developed to recognize these entities independently from traditional commercial companies and to provide flexible legal forms suitable for innovative projects, requiring flexible conditions for establishing such enterprises and allocating incentive advantages.

The legal texts also include mechanisms for supporting and financing start-ups, such as establishing national funding funds, simplifying procedures for obtaining the classification "Innovative Project" or "Start-up," facilitating access to incubators and accelerators, and providing tax and other incentives to encourage investment in entrepreneurial projects.

One of the most prominent legislative texts in Algeria showing the state's commitment to creating a supportive legal environment for start-ups and innovative projects is Executive Decree No. 20-254 dated September 15, 2020, which establishes the National Committee for awarding official labels such as:

- "Start-up" label / "Innovative Project" label / "Business Incubator" label.
- These labels define the legal and regulatory frameworks for giving innovative projects official status, facilitating access to support, exemptions, and administrative facilitation.

- The labels are granted after evaluating the enterprise's file by a specialized committee according to criteria of innovation, added value, and potential growth.

This decree is a binding executive text that regulates the legal recognition of knowledge-based enterprises and lays the foundation for their activation in the Algerian economic system, including support for entrepreneurship and innovation.

2. **Ministerial Decision No. 1275 (September 27, 2022):**[36]

Ministerial Decision No. 1275, dated September 27, 2022, issued by the Ministry of Higher Education and Scientific Research in Algeria, regulates mechanisms for preparing graduation theses in innovative forms for students of higher education institutions. It allows students to prepare graduation projects in the form of a start-up or patent instead of the traditional model.

This decision is among the most important legislative texts that establish an entrepreneurial culture within the Algerian higher education system, officially recognizing that a graduation project can have economic and institutional value, not just academic. The text can be downloaded directly from the Ministry's website or official university platforms as a PDF within regulatory documents.[37]

This decision includes:

- Defining how to prepare a graduation project with applied economic content.
- Encouraging students toward entrepreneurship and innovation through the option of presenting a real project eligible for a "Start-up" label.
- Linking university education to the labor market and the real economy by supporting projects that can transform into actual enterprises.

3. **Ministerial Decision No. 008 (February 23, 2025):**[38]

This is an amendment and supplement to Decision No. 1275, updating some of its articles to expand the scope of projects and encourage entrepreneurship more broadly.

Key amendments include:

a. Changing the title and main objective of the project: From "University Degree – Start-up" to "University Degree – Economic Enterprise Project," expanding the concept to include various economic projects within educational requirements.

b. Expanding project objectives: Decision 008 focuses on creating a generation of entrepreneurial students capable of developing economically competitive enterprises, with broader support for economic aspects, not only innovation.

c. Adding industrial and professional training mechanisms: Organizing training courses and practical workshops in areas such as business models, marketing,

finance, management, and accounting to enable students to prepare comprehensive, actionable projects.
d. Establishing a "Guidance Unit" within higher education institutions: A unit within the university to direct students with economic ideas toward suitable structures (incubators, entrepreneurship centers, technology support centers) to assist them in completing their projects.
e. Modifying the organization of discussion committees and certification procedures: Students presenting their project before a committee including representatives from incubators, entrepreneurship centers, and economic experts receive a "University Degree – Economic Enterprise Project" certificate upon success.

Second: Investment Law 22-18:

In addition to executive decrees related to labels, other legislative frameworks affect freedom of entrepreneurship in the knowledge economy, such as Investment Law No. 22-18, which guarantees investors the freedom to choose their activity, including technology, knowledge transfer, innovation, and scientific research. This law includes principles such as encouraging technology transfer, developing the knowledge economy, and enhancing competitiveness. Under this framework, the freedom to establish enterprises and invest in knowledge-based activities is reinforced within a comprehensive incentive system

supporting creativity, technology, and skill development in economic projects.[39]

Section Three: Institutional Manifestations of Freedom of Entrepreneurship in Supporting the Knowledge Economy in Algeria

The manifestations of freedom of entrepreneurship in Algeria are not limited to legislative texts but extend to the institutional framework supporting entrepreneurship, innovation, and knowledge transfer. This can be analyzed through government bodies, incubators, accelerators, and specialized agencies, all contributing to transforming individual initiatives into knowledge-based economic projects.

First: National Agency for the Support and Development of Entrepreneurship:

This is a national body with legal personality and financial independence. The National Agency for the Support and Development of Entrepreneurship evolved from the National Agency for Youth Employment, established under Executive Decree 96-296[40], and amended by Executive Decree 20-329,[41] becoming the National Agency for the Support and Development of Entrepreneurship.

It is a public body under the supervision of the Minister Delegate to the Minister in charge of micro-enterprises. The agency aims to promote and disseminate entrepreneurial thinking by supporting project ideas for establishing and

expanding micro-enterprises and assisting entrepreneurs. It is one of the main institutional pillars for supporting the creation and development of micro-enterprises in Algeria, including support for project owners at early and advanced stages:

- Assisting entrepreneurs in establishing and expanding micro-enterprises in goods and services production to create valuable jobs and establish sustainable development.
- Services include training, registration, scoring, evaluation, financing, and project launch, making it a central mechanism for transforming ideas into economic projects.
- The agency extends to provincial offices, local branches, and entrepreneurship development centers to promote entrepreneurial culture and provide comprehensive support.

The agency also seeks to strengthen cooperation with higher education institutions to coordinate the management of entrepreneurship development centers, which helps integrate students into entrepreneurship and knowledge pathways.

The existence of this agency enhances individuals' ability to establish their projects without significant barriers and integrates economic development with knowledge-based initiative and innovation.

Second: The Role of Business Incubators and University Accelerators

Business incubators and accelerators play a vital role in supporting knowledge-based entrepreneurship, especially within university environments:

• University business incubators provide a supportive environment for university students and graduates, enabling them to transform their ideas into start-ups. They also provide training, mentoring, logistical and technical resources that entrepreneurs need in their early stages.

• Studies indicate that business incubators help reduce the initial risks of projects and contribute to developing managerial and technical skills for beginner entrepreneurs.

• Examples include initiatives such as the "Algeria Startup Challenge" and Algeria Venture, which are platforms and accelerators offering support programs, guidance, and training for emerging teams, with opportunities to connect with investors and specialists.

• Some digital incubators affiliated with the Ministry of Higher Education also provide training courses, support for digital innovation, and shared workspaces that help build market-ready project models.

These incubators create a link between academic knowledge and economic innovation, transforming educated cadres' ideas into effective institutional realities.

Third: Financing Mechanisms Directed at the Knowledge Economy in Algeria

Financing mechanisms represent an important institutional aspect in supporting the freedom of knowledge-based entrepreneurship in Algeria, especially as innovative projects often face difficulties in obtaining traditional financing due to lack of guarantees or limited market experience. These mechanisms include investment funds, tax incentives, modern financing platforms, and participatory financing, such as the Support and Development Fund for start-ups.

One of the most important financial mechanisms is the Support and Development Fund for the Algerian start-up system[42], established under financial law tools and executed through the Ministry of Economy concerned with entrepreneurship and the knowledge economy. It was officially launched on October 3, 2020.

This fund is dedicated to financing innovative projects carrying the "Startup" label approved under Executive Decree No. 20-254, making compliance with the legal requirements to qualify as a start-up a prerequisite for funding. The fund facilitates company access to capital through equity investment or quasi-equity financing, helping to bridge the financing gap in early stages and transition to growth, while addressing the shortcomings of traditional bank financing for innovative entrepreneurs. It also provides financing suitable to the nature of knowledge-based projects.

Conclusion:

This study highlights that freedom of entrepreneurship in Algeria represents a fundamental pillar in the economic and constitutional system, as the constitution guarantees every citizen the right to engage in economic activity, respecting public order and national interest. The study concluded that this freedom has historically evolved through various stages, starting from the state-directed economy after independence, characterized by direct state intervention in economic activity and strict regulatory constraints on the private sector, to the market economy openness stage that began in the 1980s, where state intervention was reduced and legislative incentives for private initiative were established. A constitutional amendment in 1996 explicitly confirmed freedom of trade and industry, and this freedom was further developed in the 2016 and 2020 amendments to include investment and entrepreneurship, reflecting the trend towards promoting entrepreneurship and innovation.

The study also showed that economic freedom is not absolute but subject to multiple controls to ensure a balance between individual initiative and public interest. These controls include legislation related to protecting the economic public order, regulations linked to the market, and controls associated with the modern economic environment, such as intellectual property protection, regulation of data usage, and governance of digitalization and e-commerce. The results also indicate that state intervention is dual, between

encouragement and support on one hand, and oversight and regulation to maintain economic stability on the other, reflecting the need for a precise balance between economic freedom and sustainable development requirements.

Regarding the manifestations of freedom of entrepreneurship in supporting the knowledge economy, the study confirmed that contemporary Algerian legislation, such as Executive Decree 20-254, Ministerial Decisions 1275 and 008, and Investment Law 22-18, provides a legal enabling environment for start-ups and knowledge-based enterprises by legally recognizing start-ups, facilitating project establishment, providing financial support, and facilitating access to incubators and accelerators.

Supportive institutions such as the National Agency for the Support and Development of Entrepreneurship, university incubators, and business accelerators constitute practical pillars to translate legislative texts into tangible reality that fosters innovation and entrepreneurship.

Findings:

1. Constitutional recognition of freedom of entrepreneurship represents a legal guarantee to encourage individual initiative and economic innovation.
2. Policies and legislation supporting the knowledge economy enhance the capacity of start-ups to grow and invest in innovation and technology sectors.

3. Current challenges include limited financing, weak coordination between government entities and universities, and insufficient awareness of intellectual property rights among entrepreneurs.
4. Balanced state intervention between encouragement, protection, and oversight is essential to ensure the continuity of entrepreneurial freedom while protecting the public interest.

Recommendations:

1. Expand accessible financing programs and support for start-ups, particularly in knowledge and technology sectors.
2. Strengthen coordination between government entities, universities, business incubators, and research centers to ensure integrated and sustainable policies.
3. Organize awareness campaigns and continuous training for entrepreneurs on intellectual property protection and the importance of innovation.
4. Develop educational and training programs in universities linked to the labor market and knowledge economy needs, focusing on applied and innovative projects.
5. Adopt comprehensive national strategies for innovation and scientific research, including improving technological and digital infrastructure and enhancing public-private partnerships.

6. Develop flexible legislative frameworks to support digital entrepreneurship, protect investors and entrepreneurs, and establish mechanisms to facilitate project establishment and follow-up until sustainability.

In conclusion, it is evident that freedom of entrepreneurship, supported by strong constitutional guarantees and effective policies to support the knowledge economy, constitutes a crucial factor for achieving sustainable economic development in Algeria, enhancing innovation, creating jobs, and ensuring a precise balance between private initiative and public interest. This freedom serves as a practical tool to achieve state objectives in development and innovation, transforming knowledge and scientific research into tangible economic value that supports the national economy and contributes to raising its competitiveness internationally.

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[1] **Bachir Cherif Chamseddine, Samihah Laqabi**, *The Mediator in Economic Public Law*, Dar Al-Huda for Printing, Publishing, and Distribution, Algeria, 2021, p.17.

[2] **Latifa Boukhari**, *State Intervention in Price Setting and Its Effects on Competition*, Master's Thesis in Private Law, Faculty of Law and Political Science, University of Oran, 2012-2013.

[3] **Bachir Cherif Chamseddine, Samihah Laqabi**, *Ibid*, p.21.

[4] Law 88/01, establishing the guiding law for public economic enterprises and abolishing the strict supervision applied to them under the socialist system; as well as Law 01-04 relating to the organization, management, and privatization of public economic enterprises.

[5] **Jacques Chevallier**, "Regulation et policentrisme dans l'administration Françaises," *Revue Administrative*, January-February 1998, n.1, pp.49-50.

[6] **Constitution of the People's Democratic Republic of Algeria**, issued on 7 December 1996, Official Gazette No. 76, published on 8 December 1996

[7] **Imad Eddine Ouadi, Fathi Amrouche**, "The Principle of Freedom of Enterprise in the Algerian Constitution," *Journal of Legal and Political Studies*, Vol. 8, No. 1, Laghouat, 2021, p.345.

[8] **Constitution of the People's Democratic Republic of Algeria**, issued on 6 March 2016, Official Gazette No. 14, published on 7 March 2016.

[9] **Constitution of the People's Democratic Republic of Algeria**, issued on 3 December 2003, Official Gazette No. 82.

[10] **Frédéric Colin**, *Economic Public Law*, Gualino Éditeur, Paris, 2005, p.123.

[11] **Bachir Cherif Chamseddine, Samihah Laqabi**, *Ibid*, p.56.

[12] **Frédéric Colin**, *Ibid*, p.121.

[13] Article 61 of the 2020 constitutional amendment confirms this principle.

[14] In modern constitutional jurisprudence (e.g., Dominique Rousseau and Louis Favoreu), not all constitutional principles are classified at the same level. A distinction is made between:

- **Teleological constitutional principles**: Express the major goals of the constitution and shape the general direction of the political and economic system; they are not exercised independently but achieved through tools such as sustainable development and social justice.
- **Instrumental constitutional principles**: Not ends in themselves but serve to implement teleological principles, functioning as constitutional instruments.

[15] **Niall O'Connor**, *Business Freedoms and Fundamental Rights in European Union Law*, Oxford Studies in European Law, 2024, pp.5-9.

[16] **Louis Favoreu et al.**, *Constitutional Law*, 13th Edition, Paris, Dalloz, 2016.

[17] **Dominique Rousseau**, *Constitutional Litigation Law*, 11th Edition, Paris, LGDJ, 2020, pp.156-157.

[18] Article 04 of Law No. 16-09 dated 03/08/2016, relating to investment promotion, Official Gazette No. 46, dated 03/08/2016.

15. [19] Example: Article 25 of Law No. 04-08 dated 14 August 2004, relating to the exercise of commercial activities, amended and supplemented:

"Any regulated activity or profession subject to registration in the commercial register requires obtaining, prior to registration, a temporary license or accreditation granted by the competent authorities; however, the actual commencement of the activity or profession remains conditional on obtaining the final required license or accreditation issued by the competent authorities."

Official Gazette No. 52, dated 18 August 2004.

[20] Order No. 97-06 dated 21/01/1997, concerning military equipment, weapons, and ammunition, Official Gazette No. 6, dated 22/01/1997

[21] **André de Laubadère**, *Economic Public Law*, 2nd Edition, Dalloz, Paris, 1976, pp.253-254.

20. [22] Regulatory measures of administrative control are divided into:

- **National control measures**, handled by central administrative authorities and applied throughout the national territory.
- **Local control measures**, handled by local authorities on behalf of the state (mayor, wali) and applied to a specific territorial region (municipal or provincial level).

[23] Gustavo Ghidini, Gustavo Ghidini, Intellectual Property and Competition Law, Edward Elgar Publishing,2006,p.

[24] Pat Treacy, Pat Treacy, EU Competition Law and Intellectual Property Rights, Edward Elgar Publishing,2024

[25] OECD, Competition Policy and Intellectual Property Rights,1998

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[29] Refer to Articles 8, 9, 11, and 12 of Law No. 18-05 dated 10 May 2018, concerning e-commerce, Official Gazette of the People's Democratic Republic of Algeria, No. 28, 16 May 2018.

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[31] OECD, *The Knowledge-Based Economy*, Paris,1996, OECD

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[33] Drucker, P. F , *Post-Capitalist Society* New York: Harper Business,2013.

[34] **J amal Daqish**, "The Impact of Algeria's Economic Reform Policy within the Transition to a Market Economy on Macroeconomic Balances, 1988–2015," *Al-Muntada Journal for Economic Studies and Research*, No. 3, 2019, pp.14–15

[35] **Kamal Abdallah**, "Historical Milestones of Education in Algeria," *Annals of History and Geography*, No. 07, 2013, p.219

[36] **Ministerial Decision No. 1275**, dated 27 September 2022, specifying the procedures for preparing a graduation project in the form of a startup.

[37] Selatnia , Amraoui), *University Business Incubators in Algeria: Promoting Startups through Ministerial, instruction No. 1275*journal of law and political sciences, 2024, p.439,440

[38] **Ministerial Decision No. 008**, dated 23 February 2025, amends and supplements Decision 1275, transforming the project into an "Economic Enterprise Project."

38. [39] **Article 2 of Investment Law No. 22-18** explicitly states that one of the main objectives of this law is to:

- Promote technology transfer, innovation, and the development of a knowledge-based economy.
- Spread the use of new technologies and develop human skills.
- Increase the competitiveness of the national economy and its export capacity.
- **Article 3 of Investment Law No. 22-18** enshrines the principle of freedom of investment:

"Freedom of investment: Any natural or legal person, national or foreign, resident or non-resident, who wishes to invest, is free to make their investment decision in accordance with the applicable legislation."

[40] **Executive Decree No. 96-296**, dated 8 September 1996, establishing the National Agency for Youth Employment Support and defining its basic statute, Official Gazette No. 52, 1996.

[41] **Executive Decree No. 20-329**, dated 22 November 2020, amending and supplementing Executive Decree No. 96-296, Official Gazette No. 70.

[42] **Official website of the Algerian Startup Financing Fund:** https://asf.dz/ar