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**Mining activity in Algeria: the development requirements and protection
necessity of the environment: An analytical revising of Law 25-12**

النشاط المنجمي في الجزائر: بين متطلبات التنمية وضرورة حماية البيئة

قراءة تحليلية في القانون 12-25

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Abstract:

The mining sector is possessing an increasing universal interest due to the accelerating growth wheel of global economic, the growing use of technology, and the transition towards clean energy. This was made "Mineral security" in a necessity state. Considering its large natural reserves of mineral wealth, Algeria is qualified to play a pivotal role in securing global demand and establishing a strong and competitive presence. This is what Law 25-12 seeks to dedicate through broad openness to foreign partnerships in accordance with modern and adaptable international standards. This has caused earnest legal and environmental problems, which we will try to tackle and analyze through them through this research.

Keywords: Mining activity, mineral security ,investment, environment, sovereignty.

المخلص:

يعرف قطاع المناجم اهتماما متزايدا عالميا بالنظر لتسارع وتيرة النمو الاقتصادي العالمي و الاعتماد المتصاعد على التكنولوجيا و التحول نحو الطاقة النظيفة ، ما جعل من "الأمن المعدني" حاجة ملحة ، و الجزائر بالنظر لحجم مخزونها الطبيعي من الثروات المعدنية تكون مؤهلة للعب دور محوري في تأمين الطلب العالمي و تسجيل حضور قوي و تنافسي ، وهو ما يسعى لتكريسه القانون 12-25 من خلال الانفتاح الواسع على الشراكة الأجنبية وفق معايير دولية حديثة ومرنة ، الأمر الذي طرح اشكالات قانونية و بيئية جادة نحاول القاء الضوء عليها و تحليلها من خلال هذا البحث.

الكلمات المفتاحية : نشاط منجمي ، أمن معدني ، استثمار ، بيئة ، سيادة.

1. INTRODUCTION

The mining sector in Algeria has undergone to several legal transformations since the independence, these last reflect the economic orientation of the state and its view to the sector. Despite the changing of ideologies, the status of the sector has remained oscillating between attempts to reconcile national sovereignty over natural resources and the necessity of finding robust alternatives to the hydrocarbon sector. These alternatives aim to drive and finance the economic development and moving away from oil and gas dependence, diversifying the national economy, and reducing vulnerability to fluctuating hydrocarbon prices.

However, current international economic conditions characterizing by increasing global economic growth, growing reliance on modern technology, and a shift towards clean energy have made the mining sector a central point of global attention within the framework of what has been termed "mineral security." This is manifested in the

increasing global demand for minerals, particularly strategic minerals.

Therefore, given its abundant natural and mineral resources, Algeria is well-positioned to play a significant role in the global economy by securing supply chains for these materials and accessing international markets. This makes it present strongly in international level. Consequently, the Algerian legislature amended Law 14-5 (gazette, 2014), which, despite its merits, failed to achieve its intended results due to a lack of the procedural and legal flexibility required internationally, this negatively impacted the sector.

Thus, the new Law 25-12 (52/2025) emerges as a promising legal framework, embodying a strategic and forward-looking vision for the sector's advancement through broad openness to serious foreign investment, which offers numerous developmental advantages. The foreign partner's contribution can reach up to 80%, with the local partner holding 20%.

This new approach in managing the sector has generated legal and political debate due to the risks of foreign acquisition of resources and its potential negative environmental impacts.

This leads us in this research paper to ask: Has the Algerian legislator, through Law 25-12, succeeded in reconciling the requirements of economic development—which necessitate greater openness to foreign investment and leveraging its capabilities to finance development beyond hydrocarbons, given the weakness of local investment—with the imperative of protecting the environment from the harmful effects of intensive use and depletion?

To answer these questions, we adopted an analytical approach to the most important provisions of Law 25-12, following a practical plan based on two-part division. The first part tackles the objectives of broadly opening up to foreign investment in the mining sector and the most significant legal problems raised in this regard.

The second part is dedicated to the environmental impacts that results from this openness and the obligations of the parties involved, in order to safeguard the public interest and serve sustainable development.

2. Motives for Opening the Mining Sector to Foreign Investment and its Legal Challenges

There are numbers of motives behind the decision to broadly open the mining sector to foreign investment, unlike the previous situation (firstly). This resulted in legal challenges that the legislator attempted to address through Law 25-12 (secondly).

2.1.Motives

2.1.1- Economic Motives:

The economic approach formed a substantial basis for opening the mining sector to foreign investment in Algeria, because of its advantages and added value that offers to the national economy (compared to weak local investment). It is expected to create new developmental activity in the country, fueled by natural resources.

Despite criticisms leveled against this endeavor based on foreign acquisition and its risks (Yahia, 2025), the government's approach clearly prioritizes the benefits (advantages) over the drawbacks (negatives).

The government viewed opening up to foreign partnerships in this sensitive and strategic sector as a logical solution and an effective remedy for several problems, both within the sector itself and for the national economy as a whole.

- At the level of the mining sector: Despite of the vast natural resources of the country, they remain untapped underground due to several reasons, most notably: the lack of a precise geological map or data showing the location and the extent of these resources.

This has led to a lack of new discoveries and made exploration a high-risk endeavor.

Furthermore, the necessary financial and technological resources for extraction are unavailable.

National mining institutions are not financially, technically, or technologically qualified to detect and extract these resources, making them vulnerable to illegal exploitation by unlicensed mining groups.

This has led to the emergence of an illicit parallel black market for plundering and depleting these resources (this was a weakness of Law 14-05). Therefore, according to these circumstances, broad foreign partnerships present a practical solution for revitalizing the sector and achieving numerous benefits.

Foreign partners can provide expertise and transfer the modern technology necessary for extensive exploration and mining, while also possessing sufficient financial resources to cover exploration expenses and improve efficiency. Therefore, the development of the sector will eliminate the weakness of local investments that has hindered mining capacity for many years (minister of Energy, 2025), thus contributing to the influx of new capital into the sector.

On the other hand, accessing global mineral markets is not easy, as it does not end with extracting resources from their deposits, but

also with marketing them through major international markets, which inevitably requires foreign companies to operate and access them (Tebessa, 2024).

- At the national economic level: the development of the mining sector will revitalize the economy and boost the economic growth, because of the numerous positive repercussions stemming from the sector's strategic importance. Foreign investment partnerships are expected to be a source of wealth creation and add value to the national economy by creating and developing new jobs, in addition to generating significant tax revenue for the public treasury and diversifying sources of wealth. On the other hand, according to the experts, the mining sector, after opening up to foreign partnerships, is expected to contribute in the raise of the percentage of contribution to the general domestic product, as it is expected to reach 15% after it was 1% due to the anticipated structural projects, which makes it an important tool in engineering economic development and a modern method for the new economic management of the country, breaking dependence to hydrocarbons and providing new sources of income.

.21.2. Strategic Motives:

The Activating of the investment system in the mining sector will achieve strategic objectives in the medium and long term, ensuring the provision of vital strategic resources for the country.

This will be accomplished by supporting and developing domestic processing industries, moving beyond simply extracting raw natural resources to transforming them into semi-finished products with added value (journal, 2026).

This will contribute to the advancement of local processing industries and the industrial valorization of mineral materials, representing a significant qualitative shift for the country from merely being a source of raw materials to a producer of manufactured goods such as iron, phosphates, and zinc.

This, in turn, will bolster economic and technological sovereignty over natural resources, given the country's natural reserves of minerals and rare metals (Zahia, 2021).

This dynamism will also support local development through development projects in the areas of mining activity. Furthermore, continuous interaction with foreign partners will enhance national capabilities in geological exploration and evaluation, which is expected to stimulate growth and exports.

2.1.3- Containing international data and adapting with it:

The tremendous development and widespread and increasing use of modern technology has made the mining and mineral exploitation industry one of the fastest-growing industries in the world.

Thanks to this, the global economy has undergone a significant structural transformation after the great leap in using technology in various sectors.

This has made the minerals sector a point of interest instead of hydrocarbons, given its paramount importance in supporting modern and advanced industries.

This has prompted the most industrialized countries to diversify their supply sources for these minerals to prevent the economic and security risks that results from weak supply chains, monopolies, lack of diversification in suppliers of these minerals, and supply disruptions.

This results in increased international competition for exploration and mining contracts. The stable securing mineral supply chains has become one of the main objectives in the efforts of most countries in the world to change towards clean energy (electric cars, smart cities, and modern military industries).

This is an endeavor of the International Energy Agency and the G7, which have emphasized combating the monopoly of rare minerals, opposing any supply disruptions, promoting dialogue between extracting and consuming countries, and developing mines in several countries (Attaqa, 2023).

Therefore, Algeria had to integrate into this revolution in the world of mining and quarrying industries and open its mines to investment and benefit from global expertise in this field in order to be an important player in meeting global demand and keeping pace with the accelerating global economic growth.

2.2. the legal challenges:

It is well known that Law 25-12 abolished the 51/49 rule in mining investments, which required the Algerian party to hold a majority stake in any joint venture with a foreign partner. This was replaced by a rule stipulating that 80% of the capital of discovered projects belongs to the foreign investor, while the national partner retains at least 20% (25-12 art 101).

This significant and striking shift has sparked a wave of criticism from the political class, particularly opposition parties, who view it as a clear erosion of national sovereignty over natural resources.

They consider it an unconvincing privatization of a strategic and vital sector, opening the door wide to foreign acquisition of the natural resources of the country (aawsat, 27/07/2025).

Furthermore, they cite the environmental and health damage caused by exploration and drilling operations conducted by foreign companies, whose 80% ownership allows them to disregard national laws and international environmental and health standards.

This is deemed contrary to the supreme national interest and a long-term threat to the environment and natural resources⁵⁶

In fact, this exchange between the opposition and the government regarding the feasibility of Law 25-12 raises two legal issues. The first relates to the concept of national sovereignty over natural resources and its limits within the framework of contractual relations, and the second relates to the measures included in this law to protect national sovereignty.

2.2.1 The Concept of National Sovereignty:

The necessity of responding to the requirements of economic development and securing its costs in terms of attracting sufficient foreign capital to support and develop local skills and transfer modern technology and techniques—which local resources are unable to provide—does not, in reality, contradict the concept of sovereignty over natural resources. Rather, it falls within the framework of international contractual relations subject to international law and the laws of the host countries.

The United Nations Human Rights Committee has issued several resolutions on this matter to attempt to create a balance between the two concepts by defining the duties and rights of the parties (Ibrahim, 2023).

If the sovereign state has the right to put in place the necessary measures to regulate foreign mining investment and subject it to the legal rules it establishes, then it bears international obligations for the optimal exploitation of resources. In return, it must respect the rights of the foreign party and ensure a (developed, flexible, and stimulating) legal and regulatory environment that embodies the principles of international law in this context.

It must also demonstrate good faith in concluding these contracts and commit to implementing their provisions.

This results in a shift in the concept of sovereignty over natural resources by restricting it both internally and externally, thus compelling it to evolve into a more comprehensive concept. More flexible and less rigid (AlSaghir, 2021)

2.2.2 Measures included in Law 25/12 to protect national sovereignty:

While the Mining Activities Law embodies a forward-looking vision for developing and advancing the sector through foreign partnerships, it does not neglect the need to protect national sovereignty. It includes a set of measures that reinforce and safeguard this concept.

- Obligation to be subject to Algerian law: Article 66 of Law 25-12 distinguished between several types of licenses granted within the framework of mining activities. If it concerns a license to prospect for mines, explore mines or quarries, the law equates the legal entity subject to Algerian law with the legal entity subject to foreign law, because of the difficulty, complexity and cost of prospecting and exploring new mines or quarries.

As for licenses to exploit mines, quarries, mine remnants or piles of mine debris, collect meteorites and exploit quarry materials, it stipulated that it be a legal entity subject only to Algerian law, that is, subject to the legal rules established by the state in service of its interests and for the optimal exploitation of its natural resources. Also, a mining license for exploiting mines and quarries may not be mortgaged except in favor of an institution subject to Algerian law. In this regard, Article 101 mandates that the national institution contribute at least with 20% of the capital of any legal entity subject to Algerian law that is wholly or partially owned by a foreign partner. This percentage may be exceeded by mutual agreement if the economic interests of both parties are justified.

- The right of administrative preemption: Administrative preemption is a legal privilege stipulated by several laws as a reason to acquire ownership, the most important of them are the financial laws, where it grants the state or one of its bodies the possibility of replacing any other buyer in contracts for the sale or lease of real estate or movable property, especially when foreigners relinquish their shares or real estate.

The state uses to it to protect the national economy, and it has been dedicated in investment laws and many sectoral laws.

However, the unstable economic conditions demanded the adoption of new measures to attract and stimulate foreign investment, the most important of these measures was the cancellation of this privilege in general

through the supplementary finance law of 2020, excepted some strategic sectors, most notably the mining sector, where Law 25-12 authorized the possibility to resort to this right for protect the national interest, as stated in Article 74: "The national institution enjoys the right of preemption in the event of the transfer of rights and obligations that arise from a mining concession for exploitation owned by a company subject to Algerian law that is its contribution from foreign or non-resident natural or legal persons."

...The national institution can exercise this right for a period of 60 days not more, starting from the date of receiving a copy of the referral request..."

- Strict Administrative and Technical Control: The Algerian legislator has made mining activity a regulated activity, which can only be practiced based on administrative licenses that cover all stages of mining activities. This is achieved through the establishment of two mining agencies under Law 14-05, which possess significant authority in regulating and controlling in general mining activity and geological installations (chapter two).

The governor also has a number of powers within the framework of oversight, according to the text of Article 152, which states: "The governor with territorial jurisdiction shall take the necessary precautionary measures if the nature of the mining exploration and exploitation works disturbs security, public health, the integrity of the land, and the stability of dwellings... to preserve... and groundwater layers... or the supply of potable water..."

3. Environmental Risks and the Obligations of the Parties

There are serious environmental risks in mining activity, which entail obligations for both the state hosting these activities and the investors, in an attempt to create a balance between the requirements of economic development and the requirements of environmental protection and sustainable development. This necessitates determining

the extent of these risks (firstly) and then the environmental obligations (secondly).

3.1 Environmental Risks:

Mining activity causes a number of significant risks in all their forms: atmospheric, marine, and on soil. These risks are amplified because of several factors, among them the technologies used, the chemicals used, and the proximity of the activity to residential areas, because mining hazards extend beyond the immediate mining perimeter. These hazards encompass various environmental elements:

- Groundwater and surface water contamination from toxic metals that have leached into water sources a danger, it can poison or increase acidity (Mohamed, 2023), pose risks to humans, plants, and animals. Improper storage of mine waste (poor post-mining management) also contributes to the problem.
- Air pollution from the use of explosives in mining and transportation, causing the spread of dust saturated with metals and the emission of toxic gases. This also threatens fragile soil layers, creating geological hazards.
- Threat of vegetation and biodiversity, this lead to the destruction of natural habitats and endangering wildlife, with severe consequences for biological resources.
- The noise and visual pollution caused by drilling and transport machinery and equipment seriously affects neighboring local areas.

3.2 the obligations of the parties:

In order to protect the public interest within the framework of sustainable development, and in accordance with the provisions of the Constitution, Law 25-12, in line with the Environmental Protection Law (03-10 (Belfadhel Mohamed, 2019) imposes a set of environmental obligations on both the state and investors.

3.2.1- State Obligations:

The international dimension is predominant in states' obligations in the field of environmental protection. As a general principle, international law prohibits any activity that harms the environment, but

it makes exceptions for certain necessary development activities, taking into account the extent and magnitude of environmental damage within agreed-upon international standards (Beli boulenouar, 20231)).

These activities include the extraction and exploitation of n)atural resources. Conversely, the state is obligated to take measures to reduce environmental damage and limit its escalation (Article 116) and not to invoke internal sovereignty as a justification for exploiting its natural resources.

Article 116: Mining activities shall be carried out in accordance with the best international techniques and practices in order to prevent and minimize risks or damage that may be caused to persons, property, facilities, or the environment.

All means shall be employed to preserve deposits and achieve optimal economic recovery of mineral or fossil materials, while respecting the rules for the protection of persons, property, and the environment.

Among the most important of these obligations, as revealed by international experience, are:

- Formulating a policy aimed to monitor environmental damage and implement this policy practically through the enactment of legislation and regulations, and ensuring their enforcement. This constitutes a legal, regulatory, remedial, and deterrent framework.
- Environmental Impact Assessment (EIA): This involves obligating the investor to submit a detailed environmental impact study of the project before granting a license, in order to determine the extent of the project's risk and its potential harm to the environment in all its components or to the population. (Article 119).
- Imposing fees as advance financial guarantees held by the state as security to ensure compliance with environmental obligations by the investor in the future, regardless of the justification.
- prevent and exclude any mining activity in certain areas due to their specific characteristics or sensitivity (such as

environmentally protected areas, areas of strategic importance like water sources, or populated areas).

- Establishing an effective monitoring system during exploitation, as the state's role does not end with granting licenses but continues through the exploitation phase and beyond, to ensure adherence to environmental standards, known as "compliance monitoring." This is achieved through various means, including periodic inspections, regular monitoring of mines, careful review of all reports, and deterrence of violators.

- Adhering to strict regulations governing the management of waste and mine and quarry byproducts, and ensuring that toxic materials do not leak into groundwater.

- Supervising and monitoring the management of the post-mine phase and its safe closure, in accordance with the responsibility that rests on it towards the mining sites after the end of their exploitation and what they may pose in terms of serious environmental risks, and obligating investors to rehabilitate the affected areas by planting trees to restore the vegetation cover and combat erosion.

- Ensuring the protection of public and occupational health: This is achieved by providing regular health checkups for residents in areas near mines. Mine construction is prohibited near populated areas, and a safe working environment must be provided.

3.2.2. Investor Obligations for Environmental Protection:

Law 25-12 contains a set of environmental responsibilities incumbent upon investors in the mining sector and within the framework of sustainable development, as outlined in Article 117. These responsibilities primarily consist of:

- Adherence to the provisions of licenses and permits, which serve as the legal instrument for conducting any mining activity, and compliance with environmental specifications.

- Preparation of environmental impact and risk assessment studies for all stages of the

activity, to be submitted with any license application, along with an environmental management plan and a rehabilitation plan, which are subject to approval by the competent authorities (Articles 119 and 120).

Article 119: "Every applicant for a mining or quarrying license, or a license to exploit mine tailings and mine debris piles, or a quarrying license, must attach to their application impact studies and risk studies for the mining activity on the environment, along with an environmental management plan and a rehabilitation plan..."

Article 120:" Every applicant for a mining or quarry exploration license and a craft mining or quarrying license must attach to their application a memorandum on the environmental impact of the mining activity."

- Compliance with technical and regulatory requirements regarding the use of explosives, public health and hygiene, and the preservation and protection of the essential components of the terrestrial or marine environment adjacent to the activity site.

- Adherence to legal standards when using chemicals.

- Commitment to protecting biological and natural resources and rationalizing their exploitation, along with paying the required fees and royalties.

- Repairing any damage to property or persons that result from mining activities, and the commitment to continuous monitoring.

- Implementing the polluter-pays principle: This is an environmental legal principle with an economic basis, which places the costs of prevention, control, and remediation measures on the polluter, rather than on the government or society. This results in integrating environmental protection costs into the prices of services and goods and proactively funding environmental protection efforts.

- The use of new biotechnology to reduce environmental impacts and increase efficiency.

-Environmental planning and developing solutions to these problems, including the management of waste generated from mining operations, such as rock waste and chemical waste.

-Put a detailed plan for the safe closure of the mine and the rehabilitation of sites after the cessation of operations, restoring the land to its natural state or repurposing it. For example, old mines can be transformed into tourist resorts or lakes.

-Using modern technologies in exploitation to reduce risks and support innovation in this field (such as recycling wastewater).

4. CONCLUSION

This study has yielded a number of findings (firstly), which have enabled us to formulate a set of recommendations (secondly).

4.1-Results

Law 25-12 is characterized by flexibility and modernity, reflect a modern, forward-looking vision for the sector and adapting to international economic realities, but it is insufficient.

- Broad openness to foreign partnerships is an imperative for the sector at present and does not contradict the concept of national sovereignty over resources, which has become more flexible.

- The legal provisions introduced by Law 25-12 require effective practical renewal through highly competent specialized bodies.

- The integration of the environmental dimension within the framework of sustainable development in sector projects is essential for preserving the national interest and is not merely a procedural requirement for obtaining licenses. It also ensures the social sustainability of these projects.

- The state plays a crucial role in supporting the sector's openness and development in a preventative and remedial manner.

- The Ministry of Environment is almost entirely absent from monitoring and correcting environmentally harmful practices within the sector.

4.2- Recommendations:

- The Expedite of the drafting of the regulatory text to ensure the clear implementation of Law 25-12 and complete a robust, modern legal framework to govern the major projects that the country anticipates opening (Gar Djebilet iron ore mine, phosphate mine, etc.).

- Effectively establish mechanisms for resolving any disputes with foreign parties, particularly arbitration mechanisms.

- Ensure the involvement of national partners and work to empower them to acquire national knowledge and expertise, along with ongoing training for specialized personnel.

- Develop accurate geological maps to prevent foreign data acquisition.

- Emphasize the environmental dimension of any exploration agreement and involve all stakeholders in environmental protection, including civil society and the Ministry of Environment, to create a balance between the need for development and the requirements of environmental protection and sustainable development.

- Include infrastructure and sustainable development projects in mining contracts within a balanced partnership framework

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