

Updating the Algerian General Economic Law in the Light of Digitization

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Received: 04/01/2026

Accepted: 27/03/2026

Published: 11/06/2026

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Abstract

The stakes of the Algerian general economic law to keep pace with modern technological development are represented in providing a legislative environment that supports innovation and digital development, while taking into account the protection of rights and achieving sustainable development. It is likely that the success of these stakes requires strong political will, cooperation between various parties, and flexibility in amending laws to keep pace with rapid changes in technology.

Technological developments present many legal and economic opportunities that can contribute to enhancing economic growth, but at the same time impose challenges on existing legal systems. To ensure that the economy benefits from these technologies in a balanced manner, decision-makers and legislators must continuously update laws, taking into account the protection of individual rights, ensuring fair competition, and providing an environment that encourages innovation and sustainable growth.

Keywords: Algerian general economic; development; digital; opportunities; update laws.

1. INTRODUCTION

In recent times, the rapid advancement of technology has revolutionized various sectors of the Algerian economy, creating unprecedented opportunities for growth and innovation. However, this digital transformation also poses significant challenges to economic law, which is struggling to keep up with the evolving landscape. As technology continues to disrupt traditional economic structures, policymakers and legal experts face the daunting task of adapting economic law to address these new realities. The emergence of cryptocurrencies and banking

technology are real stakes for economic law, as these innovations have the potential to disrupt prevailing financial systems and raise questions about the regulation of money and securities. Global legal frameworks in general and Algerian legal frameworks in particular struggle to classify and regulate these assets, leading to uncertainty and potential risk for investors and consumers. Moreover, the decentralized nature of advanced technology requires economic laws to be updated to keep pace. Artificial intelligence and digitization are reshaping industries, labor markets, services, and domestic and foreign investment, posing challenges to Algerian economic law.

The stakes of the Algerian general economic law to keep pace with modern technological development are represented in providing a legislative environment that supports innovation and digital development, while taking into account the protection of rights and achieving sustainable development. It is likely that the success of these stakes requires strong political will, cooperation between various parties, and flexibility in amending laws to keep pace with rapid changes in technology. From this, the following question can be raised: What are the stakes for creating a legal and regulatory environment within the framework of general economic law that contributes to enhancing development based on digitization and providing protection and opportunities for all stakeholders in Algeria? This is what we will try to identify, by monitoring: the theoretical foundations of general economic law in light of modern technological developments in the first section, while in the second section we will address the Algerian economic legal system in the midst of economic transformation and technological development.

2.The first section: The theoretical foundation of general economic law in light of modern technological developments

Public economic law is one of the modern branches of public law, and represents a regulatory tool that aims to achieve a balance between public and private economic interests. This law is gaining increasing importance in light of global economic transformations, as it plays a major role in directing economic activity and achieving sustainable development. It is a set of legal rules that regulate relations between the state and economic actors (companies, individuals, and institutions) with the aim of achieving a public interest. It aims to provide a balanced economic environment through government intervention in markets and regulating economic activities to ensure stability and growth. Public economic law is not just a means of regulating economic activity, but rather a tool for achieving development and social justice. In a world witnessing rapid scientific

transformations, this law needs continuous development to ensure its response to modern technological challenges.

2.1. The first requirement: The theoretical basis of general economic law

Public economic law is a branch of law that deals with the regulation of economic activities and public policies affecting the national economy. It aims to define the legal rules that govern economic relations in various fields such as trade, investment, labor, competition, and market protection. It includes regulating the relationship between individuals and the state through laws that define the rules of the national economy and ensure a balance between economic and social objectives.

2.2.First: The nature of general economic law

Public economic law is a branch of public law that focuses on regulating the intervention of public entities in the economic sphere. The emergence of this legal field has been linked to the increasing role of the state in the economy, starting from its traditional role as a regulatory body, through its role as a contractor and shareholder, to its current role as a controlling body that regulates economic activity. Public economic law differs from public business law, which is concerned with regulating relations between the administration and economic actors. While public business law includes regulatory rules related to business life, public economic law focuses on the legal frameworks that regulate state intervention in the economy to achieve the public interest. Economic law is characterized by being an uncoded law, meaning that it is not collected in a single legal group that includes all its principles, rules and procedures. The reason for this is due to its complex nature that covers various economic activities and the relationships that arise in this field in particular.¹

Unlike other laws, such as commercial law, which focuses on regulating the activity of a specific category of persons, namely merchants, economic law includes all economic relations regardless of the nature of the parties involved. It is not limited to a specific economic sector, but extends to cover various fields such as industry, agriculture, finance, energy, trade, and others. This comprehensive nature makes it a multidimensional law, as it is linked to a group of other laws such as civil law, administrative law, and commercial law, but it

remains distinct in its focus on regulating the economy in its broad sense to achieve a balance between public and private interests.

Public economic law is a modern field of law that deals with the intervention of public entities (such as the state and government agencies) in economic life, with the aim of achieving economic and social goals that serve the public interest. This law expresses the state's will to direct economic activity and the market in a way that achieves a balance between various economic actors, whether public or private entities. Public economic law is not limited to government entities only, but its impact extends to include other economic actors, whether private companies, public institutions, or individuals. The law is used to direct the market and ensure its efficient operation while taking into account social interests. This law is concerned with establishing legal frameworks for state intervention in economic activities, such as setting economic policies, stimulating certain sectors, regulating markets, and ensuring fairness in the distribution of resources. Given the dynamic and changing nature of the market, public economic law relies on the method of induction, which is a motivational approach that aims to influence the behavior of economic actors without directly imposing binding decisions. This can be through advisory policies or support mechanisms²

This law expresses the balance between leaving the market free to operate according to its own mechanisms, and state intervention when there is a need to ensure stability or social justice. For example, the state may intervene to regulate competition, prevent monopoly, or impose price controls in times of crisis. General economic law is characterized by its extension to include various economic sectors, such as agriculture, industry, energy, trade, services, and even modern technology.

2.3 Second: Sources and principles of general economic law

1/Sources of general economic law: The sources of general economic law can be divided into internal and external sources

A/ Internal sources: The constitution is one of the most important, as the Algerian constitutions, for example, stipulated many legal provisions related to economic issues, which oblige the legislator to respect them when organizing economic laws, under the threat of constitutional oversight according to the procedures stipulated in the constitution. The constitution is also the primary reference in determining the economic system adopted by the state and the

foundations on which it is based The Algerian constitution mentioned some legal articles that stipulate economic issues, including: Article 21, which grants the state the right to organize foreign trade, Article 37, which enshrines the principle of freedom of trade and industry, Article 52, which stipulates the principle of the right to property, and articles that equate individuals in paying taxes and bearing public costs³

In addition to the constitution, there are laws as a source of legislation, as the Algerian legislator has worked to issue a large group of laws that aim to regulate various economic aspects with the aim of achieving balance and protecting the national economy. These laws include multiple areas to ensure clarity of legal procedures and stability of economic activities. The most prominent areas regulated by the laws include trade and commercial relations, as the commercial law defines the status of the merchant and regulates commercial activities and relations between merchants, whether within the local market or with foreign markets. The tax system also includes laws that specify the types of taxes applied, such as direct and indirect taxes, while clarifying collection mechanisms and ensuring equality and transparency in their application. As for the customs system, it regulates import and export operations, and imposes customs duties to protect national products and ensure the achievement of resources for the state. In addition, the laws of the mining and hydrocarbon sector regulate the exploitation of natural resources such as minerals, oil and gas, ensuring their sustainability and achieving economic benefits for the state⁴

Regulation occupies an important position among the sources of general economic law, as it is considered one of the main tools that the executive authority relies on to implement and detail laws. Constitutionally, both the President of the Republic and the Prime Minister enjoy regulatory powers that enable them to issue decisions and procedures within the framework of implementing laws, which contributes to the practical and effective implementation of economic policies. This regulatory role reflects the importance of integration between laws and regulations to achieve stability of the economic system.⁵

B/ External sources: External sources of law generally consist of charters, treaties, declarations and international agreements ratified by the state and which have become effective within its borders. Since Algeria is not a member of any regional or international economic union, this means that it is not bound by the laws or legislation issued by these unions, because it is simply not a party to them. On the contrary, it has concluded many agreements of an economic nature,

which aim to enhance international cooperation, diversify its economy, and encourage foreign investment. The most prominent of these agreements is the partnership agreement with the European Union and many bilateral and multilateral agreements with various countries of the world.⁶

2/Principles of General Economic Law: Countries take into account many principles in their move towards a market economy. The principle of freedom of trade and industry, which means allowing individuals and companies to practice commercial and industrial activities freely, without arbitrary restrictions from public authorities. This principle is based on the fact that a free economy requires minimal government intervention to enable economic actors to operate freely, which encourages innovation and growth. The principle of freedom of investment, which means guaranteeing the right of individuals and companies to freely invest their money in various economic sectors, whether productive, commercial or service, without arbitrary restrictions from the state. This principle aims to promote innovation, attract capital, and stimulate economic development. The principle of property rights, which means guaranteeing the right of individuals and institutions to own private property, whether material or moral, and to enjoy and dispose of it freely, within the limits specified by law. This principle is considered one of the basic pillars of a free economy and modern legal systems. The principle of competition, which means guaranteeing freedom of competition between economic actors in the market within fair and transparent rules, without allowing monopolistic practices or actions that harm competition. This principle is essential to enhancing market efficiency, improving quality, and reducing prices, which is in the interest of consumers.⁷

2.4..The second requirement: Modern technological developments and the restructuring of general economic law

In light of the rapid technological progress witnessed by the world today, modern technological developments have begun to profoundly affect economic laws, which necessitates the reformulation and development of legal rules that regulate economic activities in a manner consistent with these developments. These developments impose on legislators and legal experts to face new challenges that require continuous adaptation to keep pace with technological innovations

2.5 .First: The content of modern technological developments

The current technological development may bring to mind Jean-Jacques Rousseau's essay "Lecture on the Sciences and Arts," which won first prize in a competition organized by the Dijon Academy in 1750. In this groundbreaking

work, Rousseau delves into the important question of whether the progress of science and the arts has contributed to the purification or corruption of morals. Rousseau argues that progress in science and the arts has fostered a culture of superficiality and pretense. As societies become more focused on intellectual and artistic achievements, they often neglect the development of virtue and moral integrity. According to Rousseau, the allure of innovation and creativity can distract from the basic human qualities of honesty, compassion, and humility. Furthermore, Rousseau highlights the widening gap between the rich and the poor as a byproduct of scientific and artistic progress. Such progress often benefits a select few while leaving the majority in ignorance and poverty, thus exacerbating social inequality and corruption.⁸

Digital technologies have advanced faster than any innovation in history, reaching the entire population of the developing world in just two decades and transforming societies. By enhancing electronic connectivity, financial inclusion, and access to commercial and public services, technology can be a major enabler of justice. Technologies can help make the world more equitable, peaceful and just. Digital advances can support every Sustainable Development Goal at the national and international levels, from ending extreme poverty to creating wealth and prosperity, boosting agriculture, developing industry and working hard to protect the environment. But technology can also threaten privacy, diminish security and exacerbate many crises.

2.6..Second: General economic law in relation to technological development

The general economic law of technological development refers to the relationship between technological innovation and the economic system, and how each affects the other at different stages of development. This law is manifested in many economic and social aspects. In the age of technology, economic law plays a pivotal role in understanding the changes resulting from technological developments and their effects on the economy. These changes include transformations in the structure of markets and labor, and the emergence of new economic models such as the platform and data economy. Technology also contributes to improving productivity and opening up innovative markets, but it poses challenges related to digital inequality and employment.

In the context of the innovation economy, technology leaders play a significant role in shaping innovation and developing effective solutions. The technology sector acts as a major driver of economic growth through its investments in research and development, the formation of digital infrastructure, and the

stimulation of innovation across sectors. As technology advances, new opportunities emerge for countries and companies to achieve competitive advantage. The digital economy and innovation are becoming an integral part of economic development strategies. Achieving a balance between adopting technology and ensuring inclusive growth is a challenge that requires a strategic vision that keeps pace with rapid transformations and achieves sustainable development.⁹

3.The second section: The Algerian economic legal system in the midst of economic transformation and technological development

Despite the major challenges facing the Algerian economic legal system, technological and economic transformations provide an opportunity to reshape this system in a way that enhances sustainable development and creates a competitive economy. By updating laws, improving transparency, and supporting innovation, Algeria can achieve a comprehensive transition towards a more diversified and sustainable economic future. Rapid economic changes are emerging on the horizon, coinciding with global technological developments, which impose major challenges on the country's economic legal system. These transformations require the legal framework to be flexible and comprehensive to ensure the regulation of the national economy, attract investment, and promote innovation.

3.1.The first requirement: The directions of transformation in the Algerian economic legal system

With the onset of global economic transformations, Algeria found itself faced with the need to move from a directed economy that focuses on direct state intervention, to a market economy system that relies on liberalizing economic activities and involving the private sector. This step was necessary to advance the national economy and face the challenges associated with the financial deficit and the decline in oil revenues. By adopting the market economy system, the state became obligated to gradually withdraw from the economic sector and open the way for the private sector. To achieve this, it launched a series of reforms, legislation and laws aimed at strengthening the economy, including:

3.2.First: Algerian Investment Law

Since the legal reforms in the late eighties, Algeria has issued several legal texts related to investment, the first of which is Legislative Decree No. 93-12, through Order No. 01-03 and Law No. 16-09, up to the latest law, Law No. 22-18. Each

time, these laws include provisions that suggest that they aim to develop and promote investment in Algeria, taking into account the specificity of Algeria's international obligations in the first place, which did not allow the first three laws to achieve the objectives set out in view of their incompatibility with the Algerian economic reality. This is what made the authorities in Algeria, through the legislative authority, issue the latest Law No. 22-18 in terms of trying to avoid falling into the same difficulties that surrounded the previous laws, which explains its inclusion of several provisions and rules¹⁰

Law No. 22-18 of July 24, 2022, relating to investment, was issued, followed quickly by the issuance of implementing texts on September 18, 2022, unlike the previous delay in issuing implementing texts for laws of an economic nature, which led to disruption in many economic sectors. The new investment law came to establish a modern incentive framework that encourages national and foreign investment, strengthening the principle of freedom of investment, transparency, and legislative stability in favor of investors. It also provided important guarantees for foreign investors, especially in the field of transferring assets and capital. In addition, the business sector was strengthened by the issuance of the Banking Law under Monetary and Banking Law No. 23-09 of June 21, 2023, which represents a legal basis for the expected fundamental transformations in the Algerian banking system. The law included significant developments in the fields of exchange, capital transfer, digitization of banking operations, and electronic currencies¹¹

3.3.Second: The legal framework for privatization in Algeria

Privatization in Algeria is defined, according to Ordinance No. 01-04, as "any contract aiming to transfer the ownership of a public economic institution or assets belonging to the State or public law persons to natural or legal persons subject to private law". This policy emerged as part of the transition to a market economy with the aim of improving the efficiency of public institutions experiencing financial and administrative difficulties. Ordinance No. 95-22 (issued on August 26, 1995) established the first legal framework for privatization, focusing on the restructuring of public institutions and the transfer of their ownership to the private sector to improve their performance. In 2001, this Ordinance was repealed and replaced by Ordinance 01-04, which provided a more precise definition of privatization and clarified the procedures associated with it, while transferring responsibility for developing the privatization strategy and programs to the Council of Ministers.

Privatization includes several types, including full privatization in which ownership is completely transferred, partial privatization in which the state retains part of the shares, in addition to public-private partnerships. However, these operations face challenges related to ensuring transparency, protecting workers, and achieving a balance between profitability and public services. Privatization is a strategic step to develop the Algerian economy, but it requires commitment to the legal framework and ensuring justice to achieve its goals without harming the public interest

Privatization in Algeria aims to improve the efficiency of economic institutions, reduce the financial burden on the state, and stimulate the private sector by attracting capital and expertise. Operations are carried out transparently through legal advertising, and are implemented with clear contracts that preserve the rights of the parties concerned, including the protection of workers and ensuring respect for the previous commitments of institutions¹²

3.4.The second requirement: Difficulties and prospects of developing Algerian economic laws in a rapidly developing digital environmen

Algeria faces major challenges in keeping pace with the accelerating digital environment in terms of formulating economic laws that are in line with this transformation. However, these difficulties can be overcome by modernizing the digital infrastructure, strengthening cooperation between actors, and developing flexible and sustainable legislation. Adopting these perspectives will ensure that Algeria keeps pace with global digital transformations and enhances its economic competitiveness.

3.5.First: Difficulties of enacting Algerian economic laws in the rapidly evolving digital environment

Algeria, like other countries, faces many difficulties in enacting economic laws that keep pace with the rapidly evolving digital environment. The most prominent of these challenges is the rapid development of technology, where laws become inappropriate once implemented, in addition to the lack of specialized skills and expertise in the digital economy and modern technology. Resistance to change by traditional sectors or individuals is also an obstacle to adopting digital transformations. In addition, the ambiguity of international legislation makes it difficult to develop local laws that keep pace with constantly changing global standards. Cybersecurity and digital trust issues require strict standards for data protection and security. However, Algeria faces additional challenges related to digital infrastructure that still needs significant improvement, in addition to the

digital usage gap between urban and rural areas, which hinders the comprehensive implementation and application of economic laws. Although the development of information and communication technologies and digital transformation are at the forefront of the Algerian government's priorities, with the aim of building a comprehensive information society and achieving a knowledge-based economy, the desired results have not yet been achieved, despite the noticeable annual improvement in these indicators¹³

3.6.Second: Opportunities to establish Algerian economic laws in the rapidly developing digital environment

The digital revolution taking place in developed countries is a source of tremendous opportunities for developing countries such as Algeria, as digital technologies can help accelerate the achievement of development goals more efficiently and improve economic growth. Digitization provides developing countries with greater access to global markets, in addition to enabling individuals and companies to access vital knowledge and information and enhance employment opportunities. Digital technology also contributes to improving the effectiveness of development and administrative systems, and opens the way for expansion into new sectors such as e-commerce, distance education, and digital finance, which enhances job opportunities and innovation¹⁴

Law No. 23-09 of July 12, 2023, for example, on money and banking, is an important update to the legal framework regulating the monetary and banking system in Algeria. The law aims to strengthen the stability of the financial system and make it more in line with economic transformations at the national and international levels, through a set of comprehensive reforms. The most important provisions of the law include strengthening the independence of the Bank of Algeria by granting it expanded powers to control inflation and ensure currency stability, in addition to reforming the banking sector by improving bank performance and encouraging the entry of private and foreign banks while ensuring financial compliance. The law also focuses on encouraging financial innovation and digitization, by introducing financial technology technologies and developing electronic payment systems, in addition to enhancing financial inclusion by expanding banking services to remote areas and disadvantaged groups.

The law pays special attention to combating financial crimes such as money laundering and terrorist financing, while improving the loan system to facilitate

financing, especially for small and medium enterprises, and enhancing the role of the financial market in financing the economy. The law aims to enhance the attractiveness of the Algerian economy, accelerate digital transformation, and achieve sustainable economic development by supporting investment and reducing the financial gap. It represents a strategic step towards modernizing the financial sector in line with international standards, and reflects Algeria's vision to modernize its economy and enhance its diversity.¹⁵

4. Conclusion

Technological developments present many legal and economic opportunities that can contribute to enhancing economic growth, but at the same time impose challenges on existing legal systems. To ensure that the economy benefits from these technologies in a balanced manner, decision-makers and legislators must continuously update laws, taking into account the protection of individual rights, ensuring fair competition, and providing an environment that encourages innovation and sustainable growth.

Public economic law is not a fixed body of law at all times, but rather a field that has evolved in response to economic and social changes. Initially, economic law focused on the traditional principles governing the capitalist system or market economy, such as the protection of private property and market freedoms. However, with the development of economic thought, especially in the twentieth century, it began to be recognized that the state should have a major role in regulating the economy to protect the public interest, which led to the emergence of laws aimed at controlling the market and ensuring economic justice.

Modern technological developments are a major challenge for Algerian public economic law, as they impose new challenges that require continuous updating of legal systems. Legislators must balance between encouraging innovation and economic growth on the one hand, and protecting the rights of individuals and society on the other. The development of information technology, artificial intelligence, digital commerce, the sharing economy and other innovations make it necessary to reformulate economic laws to keep pace with these rapid changes and promote a fair and flexible economic environment.

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