

The impact of investment law on promoting the environmental dimension of sustainable development

أثر قانون الاستثمار في تكريس البعد البيئي للتنمية المستدامة

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Abstract:

Algerian Law No. 22-18 on Investment aims to create a favorable business environment and promote sustainable development, including its environmental dimension. Despite its dedication to the principle of compliance with environmental legislation, its actual impact on preserving the environment remains limited due to the weak incentives for green investment and the lack of clarity in the implementation mechanisms for integrating environmental considerations into all investment projects. Therefore, achieving the environmental goals of sustainable development requires intensifying the harmony between the investment law and environmental laws, and activating tools such as environmental impact studies and continuous monitoring of investment projects.

Keywords: Environmental laws, investment, sustainable development, economic development.

ملخص:

يهدف القانون الجزائري رقم **18-22** الخاص بالاستثمار إلى تهيئة بيئة مواتية للأعمال وتعزيز التنمية المستدامة بما فيها البعد البيئي لها، ورغم تكريسها لمبدأ الامتثال للتشريعات البيئية فإن تأثيره الفعلي في صون البيئة يظل محدوداً نتيجة ضعف الحوافز المحددة للاستثمار الأخضر وعدم وضوح الآليات التنفيذية لإدماج الاعتبارات البيئية في جميع المشاريع الاستثمارية، لذلك يشترط لتحقيق الأهداف البيئية للتنمية المستدامة تكثيف التناغم بين قانون الاستثمار وقوانين البيئة، وتنشيط أدوات مثل دراسة التأثير البيئي والمتابعة المستمرة للمشروعات الاستثمارية.

الكلمات المفتاحية: قوانين البيئة، الاستثمار، التنمية المستدامة، التنمية الاقتصادية.

Introduction:

The increasing environmental degradation and its growing economic and social impacts have led to a surge in international interest in environmental protection. This interest is no longer confined to theoretical aspects or political rhetoric, but has transformed into a legislative and institutional commitment for a large number of countries. This shift has manifested in the proliferation of international agreements, protocols, and recommendations that call for the adoption of preventive mechanisms to ensure the protection of natural resources, along with the integration of environmental considerations into national legislation. This allows for the guidance of economic activity towards more balanced and sustainable paths.

Within this framework, the concept of sustainable development has emerged as a development approach that seeks to achieve a balance between economic growth and social justice on the one hand, and environmental preservation on the other. Development is no longer measured solely by increased production, but is now also viewed through the lens of quality of life, the distribution of benefits, and the extent to which development projects respect their environmental and social impacts. Consequently, studying the environmental, social, and economic impact of projects has become an essential part of any contemporary development vision.

Investment is one of the most prominent tools capable of realizing this vision, as it represents an effective means of mobilizing financial resources and directing them towards projects that support environmental protection and reduce pollution and the unsustainable depletion of resources. When investment is directed towards areas such as clean energy, waste treatment, water purification, and sustainable agriculture, it not only achieves economic returns but also contributes to building a development model that aligns with the requirements of environmental sustainability.

However, harnessing investment to serve the environmental dimension cannot be achieved automatically. It requires state intervention through clear legal frameworks and effective preventive measures that make environmental protection an integral part of public policy, not merely a supplementary objective. From this perspective, the importance of modern investment legislation has emerged, which seeks to reconcile encouraging economic initiative with ensuring that the environment is not harmed, through legal

requirements related to environmental impact assessments and monitoring and follow-up mechanisms. The importance of this research paper lies in examining the extent to which investment legislation can achieve this balance, especially in light of the transformations that Algerian investment law has undergone. The issue is no longer simply about providing an attractive environment for capital, but also about the legislator's success in integrating the environmental dimension into the legal framework governing investment. Hence, the following question arises: To what extent have investment laws been able to enshrine environmental protection and ensure respect for the requirements of sustainable development in its environmental dimension?

To address this question, the study adopted an analytical approach to reading the relevant legal texts, alongside a descriptive approach to defining the fundamental concepts related to investment, the environment, and sustainable development. The research is divided into two main sections: - Laws regulating investment and sustainable environmental development.

- An analysis of the effectiveness of investment law in achieving the environmental dimension.

1. Laws Regulating Investment and Sustainable Environmental Development

The investment environment is a crucial element in driving economic growth. However, its role is not limited to attracting capital; it extends to determining the nature of the sectors towards which investments are directed. The more stable and transparent the economic environment, the greater the opportunities for financing projects with added environmental value, especially those related to renewable energy, water management, and pollution reduction. Therefore, investment stability is inseparable from the requirements of environmental protection; indeed, it constitutes one of the conditions that facilitates its achievement within the framework of sustainable development.

To understand the guarantees established by the Algerian legislator for projects with an environmental dimension, it is essential to examine the fundamental concepts upon which this topic is based, foremost among them the concept of investment, and then the concept of the environmental dimension within the context of sustainable development.

a. The Concept of Investment in Light of the Shift Towards Achieving the Environmental Dimension

- **Definition of Investment:**

The concept of investment has not garnered a unified legal consensus due to its overlap between the economic and legal spheres. From a legal perspective, investment is viewed as the deployment of foreign or domestic capital within the host country with the aim of generating a return for the investor, while contributing to the development of production and the enhancement of economic activity. The concept is also used to refer to the funds, rights, and interests that the host country recognizes as suitable for investment.

From an economic perspective, it is described as a conscious and productive process of directing capital towards an economic activity that generates added value. This requires effective intervention from economic actors to achieve genuine development, not merely financial exchange.¹

At the legislative level, Investment Law No. 22-18 did not include² a direct definition of investment, whereas Law No. 16-09 relating to investment promotion had already been established.³ Its content is defined by listing its forms, including the acquisition of assets for the purpose of establishing new activities, expanding production, rehabilitation and restructuring, as well as contributing to the capital of an institution with cash or in-kind contributions, or restoring activities within the framework of partial or total privatization⁴.

This regulation indicates that investment, in its legal sense, is not limited to simply injecting funds, but rather aims to direct them towards establishing projects, developing and reorganizing economic structures, whether through participation in companies or through reactivating economic activities within privatization mechanisms. Furthermore, Law 22-18 focused on defining the investor, considering them any natural or legal person, whether national or foreign, resident or non-resident, who undertakes an investment in accordance with the provisions of the law.⁵

From a classification perspective, domestic investment is characterized by being financed from within the country, while foreign investment is based on directing capital from one country to another, either by establishing new

projects or by contributing to existing projects. This foreign investment is divided into direct when the investor participates in the capital of a local institution while having influence over its decisions, and indirect when he is content with buying shares or bonds without interfering in management, and it often passes through the financial markets.

b- Defining the Environmental Dimension within the Framework of Sustainable Development

Before defining the concept of the environmental dimension, it is necessary to examine the meaning of the environment and sustainable development separately. First:

- The environment: In its scientific sense, it refers to the field in which the relationships between living organisms and the environment in which they live are studied, in addition to the mutual interactions between these organisms. This concept has become fundamental to understanding the complex relationship between humans and their natural environment.⁶

The Algerian legislator defined the environment in Article 04 of Law No. 03-10 relating to the protection of the environment within the framework of sustainable development, which states: (The environment: consists of natural resources, both abiotic and biotic, such as air, atmosphere, water, land, subsoil, plants and animals, including genetic heritage, forms of interaction between these resources, as well as natural places, landscapes and landmarks).

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- Sustainable Development: This is a relatively recent concept that arose in the context of increasing awareness of the environmental crisis. It is based on combining economic growth and social considerations on the one hand, and environmental protection on the other. The Algerian legislator adopted this concept in the law relating to environmental protection within the framework of sustainable development, linking it to reconciling sustainable social and economic development with environmental preservation.⁸

This concept also finds its roots in the international discussions that began with the Stockholm Conference in 1972, when a new vision of development began to take shape that links the investment of natural resources with their preservation for future generations. Hence, the expressions that were used later, such as environmental development or

development with environmental preservation, are only multiple formulations of one content that has settled today under the concept of "sustainable development".⁹

- The environmental dimension: Within this context, the proper management and exploitation of natural resources is essential to ensure their survival and continuity, through respecting environmental boundaries that must not be exceeded. Sustainable development is not based on depleting resources, but rather on regulating their use to achieve a balance between current needs and the rights of future generations.¹⁰

c. The legal foundations for achieving the environmental dimension in investment projects.

Integrating the environmental dimension into investment projects necessitates a legal framework that regulates the relationship between investment and environmental protection, and obligates the investor to respect environmental standards at all stages of the project. The Algerian legislator has adopted this approach through a set of legislative and regulatory texts that reflect a clear intention to integrate investment activity with environmental protection considerations.

Law No. 03-10 concerning environmental protection is considered... Within the framework of sustainable development, the fundamental¹¹ reference in this field was established, as it laid the foundation for the principle of balance between economic and social development and environmental protection. It also mandated that various economic activities conduct an environmental impact assessment before commencing any project. This obligation transforms environmental protection from a theoretical commitment into a legal requirement for the legitimacy of any investment project.

Furthermore, Law No. 24-04 concerning the prevention, intervention, and reduction of disaster risks contributes to sustainable development.¹²

In support of this trend, by obligating investors to take into account potential natural and industrial risks when preparing new projects, including floods, earthquakes, industrial pollution and hazardous material leaks, this law highlights the importance of anticipating risks and distributing responsibilities in a way that ensures the sustainability of the project and reduces potential losses.

Law No. 22-18 on investment also reflects a trend toward encouraging environmentally friendly projects, both by stipulating the need to adhere to environmental standards and by granting incentives to projects that integrate clean technologies and contribute to the green economy.

This trend is reinforced by Executive Decree No. 18-255 concerning the procedures for approving environmental impact studies and summaries. This decree mandates the preparation of thorough environmental studies before granting project licenses, specifying technical and procedural criteria that include the scope of impact and the type of environmental analyses required, as well as emphasizing the importance of public participation in the public inquiry.

It can be said that this system demonstrates significant legislative maturity in reconciling investment objectives with environmental protection, although its actual success depends on activating institutional oversight and coordination among the relevant authorities.¹³

2. An Analysis of the Effectiveness of Investment Law in Achieving the Environmental Dimension

Algerian Law No. 22-18 is considered a fundamental text aimed at stimulating the business climate and attracting capital. However, it did not limit itself to the economic dimension but also sought to integrate environmental considerations into the investment logic. This approach was evident in the emphasis on the need to respect environmental regulations and the encouragement of projects that use clean technologies or contribute to supporting the green economy.

Nevertheless, the success of this approach remains contingent on the effectiveness of implementation and monitoring mechanisms, the ability of the relevant bodies to coordinate among themselves, and the practical commitment to conducting environmental impact assessments. No matter how advanced a law may be in its drafting, it will not achieve its objectives unless the accompanying regulatory and administrative texts are rigorously and consistently implemented.

a. Legal mechanisms for achieving a balance between investment and environmental protection

Achieving a balance between encouraging investment and preserving the environment can only be accomplished through a comprehensive legal framework based on clear rules that regulate investment activity and prevent its deviation from sustainability goals. Among the most prominent of these rules in Algerian legislation are the principle of environmental prohibition and the principle of incentives for environmentally friendly projects.

- The Principle of Environmental Prohibition

is one of the most important legal mechanisms adopted by the legislator to protect the environment from actions or activities that may cause serious or irreversible damage. The essence of this principle lies in empowering the administrative authority to prohibit or restrict certain behaviors when it is proven that they pose a serious threat to the ecological balance. This makes the prohibition a preventive measure rather than a subsequent penalty.

Algerian legislation has adopted this approach by stipulating that administrative authorities can prohibit actions or activities that cause serious environmental damage. This indicates that the legislator did not leave environmental protection to the logic of absolute freedom in investment or economic activity, but rather linked it to a legal authority that enables the administration to intervene whenever necessary. This prohibition takes two forms: it may be an absolute prohibition that is not preceded by any additional procedure, or it may be a relative prohibition that is linked to obtaining an administrative license or fulfilling certain conditions. In both cases, the goal is not to disrupt investment but to regulate it within limits that do not compromise environmental safety or harm the public interest.¹⁴

From this perspective, environmental restrictions do not conflict with the freedom of investment, but rather complement it and grant it broader legitimacy, because investment that threatens the environment cannot be considered sustainable investment. Therefore, the balance established by the legislator between the freedom of economic initiative and the necessities of environmental protection represents a balanced legislative choice, not an arbitrary restriction on investment activity.

- The Principle of Incentives and Advantages for Environmentally Friendly Investments

In addition to restrictions and prohibitions, the Algerian legislator has adopted an incentive-based approach to encourage investments that consider the environmental dimension or contribute to the green economy. This approach is based on a simple yet effective idea: if investors are offered genuine advantages, they will tend to choose projects that are most aligned with the requirements of environmental sustainability.

Investment Law No. 22-18 stipulates a set of advantages and facilities that investors can benefit from, especially when it comes to projects implemented in areas with potential for development or in sectors that generate added value. These advantages include tax, quasi-tax, and customs exemptions, as well as exemptions from certain fees related to professional activity or corporate profits.

This policy reveals the Algerian legislator's desire to transform green investment from a mere theoretical option into a practical path that the state encourages and supports, especially when the project is linked to wealth creation or the application of environmentally friendly technologies. Thus, incentives become a legal tool for directing capital towards areas that serve the goals of sustainable development. Another example of these advantages is reducing the tax burden on profits, whether through total or partial exemption for a specific period, in addition to granting preference in obtaining industrial property for projects with an environmental character. This reflects a clear legislative will to make environmental investment more attractive from a practical and economic standpoint.¹⁵

b. Structural mechanisms that ensure the environmental dimension of investment.

Protecting the environmental dimension in the investment field is not limited to legal texts alone; it also requires institutional structures that guarantee effective implementation and continuous monitoring. To this end, the Algerian legislator established a set of bodies that contribute to studying and monitoring investment projects from the perspective of their compliance with environmental requirements.

The function of these mechanisms is to ensure that attracting investment does not come at the expense of the environment, but rather within a framework of harmony between the two. Investment projects, regardless of their economic importance, remain subject to institutional oversight that

ensures adherence to environmental studies and monitors the investor's compliance with the established legal requirements.

- The National Investment Council:

The National Investment Council is one of the most important government bodies tasked with overseeing the general investment policy in Algeria¹⁶.

This is especially true for major or strategic projects, and the inclusion of the Ministry of Environment and Renewable Energies within its structure demonstrates the legislator's awareness of the importance of the environmental dimension in investment decision-making.

This council plays a coordinating role, ensuring that environmental considerations are taken into account when evaluating investment projects. A representative from the environmental sector can offer observations and recommendations on investments with environmental impact. Thus, the investment decision is no longer a purely economic one, but rather the product of a multidimensional approach that considers environmental protection requirements alongside financial feasibility.

- The Algerian Investment Promotion Agency:

The Algerian Investment Promotion Agency was established to serve as a practical body to support investors and streamline the procedures related to launching and monitoring projects. The regulations governing this agency are considered important implementing texts of the new investment law, given their direct impact on regulating and guiding the investment process. Within this framework, the legislator introduced the single window system, both for major projects and foreign investments with national jurisdiction, and for local projects, with the aim of facilitating the administrative process for the investor. However, this facilitation was not separated from environmental regulation, as the composition of these structures includes representatives of public administrations, including the Ministry of the Environment, thus ensuring that investment procedures pass through channels that take into account the requirements of environmental protection.¹⁷

This indicates that the agency's role extends beyond simply promoting investment. It also performs a regulatory and oversight function, integrating environmental considerations into the licensing process and administrative support. This clearly demonstrates that the Algerian legislator is moving

towards a disciplined investment approach that is not based solely on facilitation, but rather on facilitation coupled with environmental oversight.

Conclusion:

In conclusion, this research suggests that the Algerian legislator has taken a significant step towards integrating the environmental dimension into the investment framework through Law No. 22-18. However, there is still a long way to go to achieve the desired effectiveness. Considering the current legal framework, the legislative diversity between the Environmental Protection Law, the Investment Law, and other regulatory rules provides a solid foundation upon which to build. Nevertheless, these remain merely theoretical texts unless translated into concrete implementation mechanisms.

The research has shown that the legislator has attempted to balance investment freedom with environmental protection requirements. Furthermore, it has gone further by granting investment incentives for environmentally friendly projects and involving environmental bodies in the licensing process. However, the fundamental question remains: are these measures sufficient on their own? I believe the answer depends on Algeria's ability to overcome the challenges of institutional coordination and activate environmental oversight mechanisms, foremost among them the Environmental Impact Assessment (EIA), which remains the cornerstone of any responsible investment project.

In conclusion, it can be said that the Algerian investment law holds promising potential for achieving the environmental dimension of sustainable development. However, this potential remains theoretical unless it is reinforced by genuine political will and legislative amendments that respond to current developments, without neglecting the crucial aspect of investor awareness and training, which is no less important than the legal texts themselves.

Results:

- The diversity of legal foundations that make the environmental dimension a fundamental criterion for evaluating the legitimacy of investment operations, as evidenced by the numerous texts encompassing environmental protection laws, the investment law, and supporting regulations.

- The clear balance established by the legislator between freedom of investment and environmental protection, as reflected in the provisions of the investment law itself.

- The provision of investment incentives for environmental projects, with the involvement of relevant environmental protection bodies in the evaluation and licensing process. Recommendations: - Revise the environmental law to align it with developments in investment projects, especially since the Algerian Constitution includes environmental protection in its preamble.

- Strengthen coordination between investment and environmental protection bodies to avoid overlapping jurisdictions and ensure integrated implementation efforts.

- Develop awareness and training programs for investors on the importance of integrating environmental considerations into their project design, with a focus on clean technologies and the green economy.

Margins:

¹ Mohamed Ali Smiran, "Stimulating Investment in Islamic Jurisprudence: A Comparative Study with Public Law", Journal of Scientific Research and Islamic Studies, Faculty of Islamic Sciences, University of Ben Youssef Ben Khedda, Algeria 1, Volume 12, Issue 01, First Semester 2020, p. 178.

² Law No. 22-18 signed on July 24, 2022 relating to investment, Official Gazette, No. 50 dated July 28, 2022.

³ Law No. 16-09 signed on August 3, 2016 relating to the promotion of investment, Official Gazette No. 46 dated August 3, 2016 (repealed by Law 22-18)

⁴ Articles 02 and 03 of Law 16-09 relating to investment promotion.

⁵ Article 05 of Law 22-18 relating to investment.

⁶ Ali Adnan Al-Feel, The Legislative Methodology in Environmental Protection (A Comparative Study), 1st Edition, Dar Al-Thaqafa for Publishing and Distribution, Jordan, 2012, p. 49.

⁷ Article 04/F7 of Law 03-10 relating to the protection of the environment within the framework of sustainable development.

⁸ Article 04/F4 of Law 03-10 relating to the protection of the environment within the framework of sustainable development.

⁹ Aql bin Abdul Aziz, Dimensions of Sustainable Development, its Sources and Applications in Light of Islamic Education, Educational Journal of the Faculty of Education, Sohag University, Part 2, Issue 82, February 2021, p. 904.

¹⁰ Nassira Touati, The Environment as an Investment Sector under Algerian Investment Law 22-18, World Politics Journal, Volume 7, Issue 2, 2023, pp. 861, 862.

¹¹ Law No. 03-10 signed on July 19, 2003 relating to the protection of the environment within the framework of sustainable development, Official Gazette, No. 43 dated July 20, 2003.

¹² Law No. 24-04 signed on February 26, 2024, containing the rules for prevention, intervention and reduction of disaster risks within the framework of sustainable development, Official Gazette, No. 16 dated March 6, 2024.

¹³ Executive Decree No. 18-255 signed on October 9, 2018, which defines the scope of application, content and methods of approval of the study and summary of environmental impact, Official Gazette No. 62 dated October 17, 2018, amending and supplementing Executive Decree No. 07-145 dated 2 Jumada I 1428 corresponding to May 19, 2007.

¹⁴See Abdel Rahman, The Reality of Balancing the Environment and the Foreign Direct Investment Contract in Algerian Legislation, Journal of Legal and Political Thought, University Center of Maghnia, Volume 9, Issue 1, 2025, p. 11.

¹⁵The same reference, p. 16.

¹⁶It was stipulated in Article 18 of Order 01-03 dated August 20, 2001 relating to investment development, Official Gazette No. 47 dated August 22, 2001, which is the article that the legislator retained and did not repeal under Law 22-18 relating to investment promotion, as it is understood explicitly through the text of Article 17 thereof, which states: ((The National Investment Council, established under the provisions of Article 18 which remained in force under Order No. 01-03 dated the first of Jumada II, 1422, corresponding to August 20, 2001, relating to investment development, is tasked with proposing the State's strategy in the field of investment, ensuring its overall consistency and evaluating its implementation.

The National Investment Council prepares an annual evaluation report which it submits to the President of the Republic.

The composition and operation of the National Investment Council are determined by regulation.

¹⁷Dib Fatna, The Algerian Investment Promotion Agency: What's new in Law No. 22-18?, Journal of Research in Contracts and Business Law, Faculty of Law, Brothers Mentouri University Constantine, Volume 10, Issue 01, December 2025, pp. 60-66.