

The legal system for investment in Algeria.**Moulay Asma****Faculty of law University of Algeria 1****Algeria****Human Rights and Culture of Peace Laboratory****Moulay.asma15@gmail.com**

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Abstract:

The legal system for investment in Algeria has known significant development derived mainly from the development and transformation of the economy from a directed to a modern economy towards openness of market, and on this basis, investment is considered as a very important topic, whether on the national or international scene.

Like other countries, Algeria is striving to create a legal environment that allows attracting investors, given that the legal climate is an essential factor in directing and encouraging investment, and through this article, we will discuss the legal system for investment in Algeria varying between incentives and obstacles, within the framework of previous laws, with a focus on the new mechanisms and mechanisms introduced by the new investment law.

Keywords:

Investment; economy; growth; Incentives; obstacles; The new legal mechanisms of investment in Algeria under Law 22/18.

المخلص:

عرف النظام القانوني للاستثمار في الجزائر تطورا معتبرا مستمدا أساسا من تطور وتحويل الاقتصاد من اقتصاد موجه إلى اقتصاد حديث يتجه نحو انفتاح السوق، وعلى هذا الأساس يعتبر الاستثمار موضوعا في غاية الأهمية، سواء على الساحة الوطنية أو الدولية.

تسعى الجزائر كغيرها من الدول الأخرى إلى خلق بيئة قانونية تسمح بجذب المستثمرين، على اعتبار أن المحيط القانوني يعد عاملا أساسيا في توجيه الاستثمار وتشجيعه، ومن خلال هذه المقالة سنناقش النظام القانوني للاستثمار في الجزائر بين المحفزات والمعوقات، في إطار القوانين السابقة، مع التركيز على الآليات والميكانيزمات التي جاء بها قانون الاستثمار الجديد.

الكلمات المفتاحية:

الاستثمار؛ الاقتصاد؛ النمو؛ الحوافز؛ العقبات؛ الآليات القانونية الجديدة للاستثمار في الجزائر بموجب القانون 18/22.

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I. INTRODUCTION

The level of economic development of any country depends, to a large extent, on the investment process in it, given that it is considered the essence of economic development, with its impact on the productive capacity of the economy, which in turn contributes to bringing technology and modern technologies and creating new economic activities, that would provide additional jobs, and for This is why countries are accelerating the development of attractive investment policies aimed at increasing and expanding their investment activities.

Algeria has paid attention to the development of investment activities since the early years of independence, and during the various phases of the national economy by regulating the legal framework for investment in our country.

Accordingly, this study seeks to shed light on the legal system for investment in Algeria in general, since independence until the issuance of the new investment law **18/22**, while highlighting the most important new legal mechanisms that the new law brought.

The problem:

Is it possible to consider the legal framework for investment in Algeria in its various stages as a catalyst for national and foreign investments? In this context, what are the new mechanisms introduced by the new investment law **18/22**?

Methodology used:

This study will employ the descriptive analytical approach, where the conceptual framework for investment is addressed, and then the various important time periods related to the development and development of investment in our country are described, as well as analyzing the most important provisions of the new investment law **18-22**, by looking at and identifying various measures, advantages and incentives. Which would encourage national and foreign investments in order to achieve sustainable economic, social and environmental development.

General division of the study:

For this purpose we have divided this research paper into:

- 1. First Headline:** General concepts related to investment.
- 2. Second Headline:** The stages of development of the legal framework for investment in Algeria.
- 3. Third Headline:** The new mechanisms that came in the new law related to investment **18/22**.

1. First Headline: General concepts related to investment.

Investment was not known in the past, in the form or level known today, and direct international investment operations flourished during the fifties until the beginning of the seventies of the last century under the influence of the prevailing ideology of development at the time (1978، ص190 ، عيسى)

Based on the fact that countries on the way to growth in the period of the late fifties and the beginning of the sixties of the twentieth century possess enormous natural resources, so the industrialized countries and their companies rushed to obtain investment privileges to explore for these wealth, through the participation of the national governments of those countries or by paying sums of money in return for investing those wealth, and the quality of investment quickly developed in developing countries as we know it today, through the participation of foreign capital to the national capital

The majority of legislations tended to enact laws that attract foreign capital, taking advantage of these investments in establishing new industries in developing countries and reclaiming agricultural lands and housing projects.

There are many concepts about the term investment, and we will try to address them through the following topics:

1.1. First Subtitle: The concept of investment.

In general terms, we have known the term intuitively for a long time, since it is a word that we use in the language of everyday life, but unfortunately it does not necessarily have the same meaning in economics, law and our daily applications, which sometimes causes errors in thinking or understanding.

One may "**invest himself personally**", "**invest the time**" or it can still be said that "**investment in the stock market is possible**".

Accordingly, it is not possible to control the concept of investment except by defining it, and there are many concepts and definitions about it linguistically and idiomatically, including **what is economic, and what is legal**, we will try to address it through the following:

1.1.1 The definition of investment language and idiomatically:

Investment is defined in terms of the Arabic linguistic concept that it comes from the verb state of the infinitive **invest** and it derives from the transformation of the man's fruit , and the fruit means the lamb that the tree produces, and the fruit also means money, and it is said that every benefit that comes from something has its fruit, as you say the fruit of knowledge is good work, and the fruit of work The good is Paradise, as it is said that the man has fruited in the money, and it has grown and increased, and when it is said that the fruit of the money is abundant, then in the language it refers to the request for fruit and investment in the money and working on its production and growth (Y . BERNARD,1975).

1.1.2 The economic definition of investment:

If investment is an economic term, however, specialists could not put together an easy and unified definition, as it came according to the economic and financial dictionary of **Yves Bernard** that: investment is the possession of the means of production through expansion, and it is the possession of capital in order to obtain income.

He defined investment as sacrificing a specific financial agreement in return for an expected return in the future (شاکر ، 1998، ص385).

According to the Austrian economist **Eugen von Böhm-Bawerk**, capital is the set of indirect or intermediate goods which, by a fruitful circulation of time, have the virtue of earning more productive labour, according to the Austrian school, whose representatives include **Eugen Friedrich HAYEK, Friedrich Hayek, and Joseph Schimpeter**, The investment is characterized by prolonging the production process.

Investment was also defined as the process of buying or producing simple equipment and commodities, and it was also defined as a necessary process that requires effective intervention and activation of one of the economic agents in order to create capital in the sense of investor wealth (علیوش ، 1999، ص2).

It is also meant by investment for society as a whole, within the framework of economic analysis, that it is the funds allocated for the production of goods that are used in the production of other goods, that is, investment represents production that is not consumed directly, such as

capital goods such as machinery, equipment, supplies, and buildings, as well as funds allocated to increase inventory (صخري، 2000، ص168).

Also, investment is part of the wealth allocated to increasing production through growth or through renewing productive capacities (الموسوعة الالكترونية، 2005), and it is also known as the formation of new in-kind capital, which is represented in increasing production capacity, and in this way it is tantamount to a net increase in the real capital of society, and its elements consist of Buildings and constructions, machinery and equipment, means of transportation, animals and other related items (عمر، 1992، ص36).

Investment was defined as investing money in order to achieve a return, income, or profit (حردان، 1997، ص13), and it was also defined as that part of the income used in the production process in order to form capital (الحاج، 1998، ص123).

It was also defined as the transfer of capital and advanced foreign technical and administrative technologies, for the sake of economic, social and administrative development to contribute to the development and development of the host country through nascent companies with the participation of national capital (الطعان، 2006، ص8).

1.1.3 the legal definition of investment:

It is important to know that the term investment is a matter of disagreement in jurisprudence and judicature. In this context, investment has been defined as the transfer of capital from abroad to the host country in order to make a profit for the foreign investor, and to ensure increased production and development in the host country (النجاني، 2002).

It is also defined as an investment in work or luxury for a certain period in order to develop an economic activity, whether the work is in the form of tangible or immaterial money or in the form of loans (عليوش، 1999).

Others define it as a non-national contribution to the economic or social development of the host country with money, work, or experience in a specific project with the intention of obtaining rewarding returns in accordance with the law (النجاني، 2002).

As stated in Presidential Decree No **420/90**, which includes the ratification of an agreement to encourage and guarantee investment between the Arab Maghreb countries signed in Algeria on **07/23/1990**, which defines investment as a citizen who owns capital and invests it in one of the countries of the Arab Maghreb Union (المرسوم الرئاسي 420/90، 1990).

The Algerian legislator also defined investment in accordance with Legislative Decree **12/93** of **05/10/1995** related to the promotion of investments as: creating, qualifying, developing capabilities and rehabilitating the restructuring of capabilities that are achieved in the form of financial or in-kind shares provided by any natural or legal person, which It is carried out within the economic activities related to the production of goods and services that are not expressly allocated to states or their subsidiaries or to any legal person explicitly designated by virtue of a text.

Articles **1** and **2** of Law **03/01** related to investment development issued on **08/20/2001** related to investment development dealt with the definition of investment, as the first article of it stated that: It includes all national and foreign investments made in economic activities that produce goods and services, as well as investments that are made Within the framework of granting concessions and licensing.

The second article also stipulates that:

- Acquisition of assets within the context of creating new activities, expanding production capabilities, rehabilitation or restructuring.

Contributing to the capital of an enterprise in the form of a cash or in-kind contribution.

- Restoration of activities in the context of partial or total privatization.

As for the first article of Law No **18/22** related to investment, it indicated that the aim of this law is to define the rules that regulate investment, the rights and obligations of investors, and the incentive systems applicable to investments in economic activities for the production of goods and services performed by national natural or legal persons. or foreigners, whether residents or non-residents.

Article **2** of Law No **18/22** related to investment (القانون رقم 22/18، 2022), indicated that the provisions of this law encourage investment with the aim of:

- Developing priority activities sectors with high added value;
- Valuation of natural resources and local raw materials;

- Giving preference to technological transformation and the development of innovation and the knowledge economy;
- Generalization of the use of modern technologies;
- Activating the creation of permanent job positions and upgrading the competencies of human resources;
- Strengthening and improving the competitiveness of the national economy and its ability to export.

1.2. Second Subtitle: Investment components.

The investment consists of the following:

1.2.1 Productive Investments: The means of equipment that constitute the means of work for projects, including changes in the inventory of finished or under-manufactured commodities.

1.2.2 Investment in housing: including major maintenance works.

1.2.3 Investment in administrative buildings.

1.3. Third Subtitle: types of investment.

1.3.1 According to the criterion of the nature of the investor:

That is, in terms of the party that spent the monetary mass to form investments, it can be included in this field:

- a. **Individual private investments**, stemming from the spirit of free individual initiative, that is, it is the use of individual and private savings in the formation of investment capital.
- b. **Governmental public investments:** It is translated at the macroeconomic level, and this is through the equipment expenditures spent by the state, as well as the budget surplus, bonds, and stocks.

1.3.2 According to the criterion of the nature of the investment:

It is divided into several types, including:

- a. **Productive investment:** It is every capital increase or formation with the aim of increasing the structure of the productive enterprise and strengthening its production capacity with the aim of financing the needs of the market and achieving profits.
- b. **Non-productive investment:** It does not contribute to increasing production capacity, and there is no relationship between them. It preserves the entity of the enterprise, such as authoring the contracts establishing it, as well as its rights such as patents and registration rights.

1.3.3 According to the criterion of purpose and opportunities:

According to this criterion, we can divide investments into:

a. **Renewal and replacement investments:** This is for the purpose of replacing previously worn out investments or those that have lost their value through time or use with other new investments that are more effective and profitable.

1.3.4 According to the criterion of the investor's nationality:

The origin of the capital or the nationality of the investor is taken into account:

- a. **Foreign or multinational investment**, through the use of savings of foreign origin in the formation of local and national investments, or the use of local savings in the formation of new capital in foreign countries.
- b. **Local investment:** It is the use of savings of a local nature in the formation of movable real estate investments in the same region.
- c. **Indirect foreign investment:** during which the foreign investor owns all or part of the project, but does not control, in part or in whole, the management and organization of the project, and these investments take several forms such as licensing contracts.
- d. **Foreign direct investment:** It is the activity that results in direct interference in the control, management and supervision of investment projects established in one economy by an institution established in another economy.

1.4. Fourth Subtitle: Investment objectives.

The investment aims to achieve several objectives, including:

- Achieving profit or income, whatever the type of investment.

- Creation and development of wealth.
- Securing expected needs and providing liquidity to meet those needs.
- Preserving the value of assets.
- Obtaining raw materials from the investing countries in order to use them in their manufacture.
- Benefiting from investment-encouraging laws and established tax exemptions granted in order to attract foreign investments to them, as well as from labor wages, which are usually low for developed countries, the cost of obtaining raw materials, and the cost of transportation.
- Finding new markets for the products and goods of foreign companies.
- Benefiting from the investments of foreign companies in the host countries due to the lack of risks.
- Benefit from advanced technological advances.
- Bringing foreign capital to invest in developing countries.
- Raising or increasing the percentage of exports and improving the balance of payments of the investee country, especially when the concerned projects export their products abroad.
- Reducing imports by increasing local production.
- Training local workers on advanced technical and administrative work and on the use of advanced production methods.
- Entering new commercial markets and improving its trade movements with the outside world.

2. Second Headline: The stages of development of the legal framework for investment in Algeria.

The investment law in Algeria had several developments and changes in line with the economic and political conditions that were taking place in each stage, especially in the nineties, as the state made important economic and financial reforms and reforms during this period, including the issuance of laws to encourage investors, open doors for them, and establish bodies charged with promoting and supporting investment.

This context requires clarification of all stages of the development of investment in Algeria, starting from the development of the first legal rule until the development of the new investment law, in light of its constitutional consecration, and did this consecration have a role in attracting foreign investors?

We will review the developments of investment encouragement laws in Algeria during three periods of time, the first before the nineties, the second during it, and the third after the nineties, and, on the other hand, the Algerian legislator and the constitutional founder dealt with investment during each era.

2.1 First Subtitle: A period before the nineties.

Investment laws in Algeria knew different eras that were characterized by a political character. The first period was characterized by its complete monopoly of the economic sector under the socialist system, and the command economy based on administrative control.

The second period was characterized by paving the way for national and foreign investments, while providing guarantees and incentives to encourage and raise the volume of investment under the free economy system.

We will discuss the consecration of constitutions for investment during this time period, on the one hand, and on the other hand, the legal guarantees for the promotion of investments in Algeria.

2.1.1 The constitutional guarantee for investment:

During this period of time extending until the nineties, the Algerian constitutional founder dealt with investment by setting principles in line with the requirements of the ideologies adopted at the time, and if the **1963** constitution did not carry any of them, just as the **1976** constitution dealt with an action plan based on the five- and seven-year plans and development strategies. , with the aim of moving the economy through the methods and mechanisms that are compatible with the socialist system under the cover of precise and cautious legal texts, which is what we discover from Articles **13** and **14** of this constitution.

As for the 1989 Constitution that protects freedoms, which was a turning point through which the transition was made from a unified political system consisting of one party and one authority, to a political system based on the separation of executive, legislative and judicial powers, and from a restricted socialist system to the issuance of several laws that pursued the policy of free economy, within The economic reforms that Algeria has known included the fiscal and banking sector, and were mainly represented in the privatization of public institutions, the restructuring of economic public institutions, and the consolidation of the system of decentralization and the independence of public institutions.

2.1.2 The legislative guarantee for investment:

The socialist orientation of Algeria in the wake of independence led to the necessity of state intervention in all branches of the economy, and this was clearly reflected in the various investment-related legislations, which were characterized by a kind of caution and reservation towards foreign direct investment.

This period included the issuance of several laws to encourage investment:

a- Investment Law of 1963:

This law (1963 , القانون رقم 277/63) focused on foreign investments in secondary sectors other than the strategic sectors that were monopolized by the state, in addition to the possibility of recovering and owning the shares of the foreign investor. This law stipulated freedom of investment and equality before the law, especially in the tax field.

What distinguishes it is that it included some guarantees, facilities, and even obstacles, and it was more interested in national investments in terms of foreign ones, defining and legally enclosing the areas designated for foreign investments.

In general, this law was not known to be effectively applied in reality, because investors questioned its credibility, given that Algeria was carrying out insurance during the period 1963-1964, in addition to that it was not an incentive for foreigners due to the instability of the political situation after independence.

b - Investments Law of 1966 (الأمر رقم 284/66) :

After the failure of the 1963 law, Algeria adopted a new law to define the role of capital in the framework of economic development, its status, forms, and guarantees, as it was different from its predecessor through the principles that were laid down in it.

In presenting the reasons, it was stated that, in implementation of the instructions of the Revolutionary Council regarding clarifying the role of capital in the framework of economic development, its status, forms, and legal guarantees related to it, the government has prepared this order that was approved by the Revolutionary Council, which is constituted with the texts on which the investment law is based.

Indicating that this law defines the framework according to which the intervention of private capital is regulated in the various branches of economic activity, and it aims to fill the gaps that afflict Law No. 63/277 of July 26, 1963, by defining the principles on which the intervention of this capital is based and defining the guarantees and benefits granted. For private capital, whether foreign or national.

Perhaps the most important of them is the non-nationalization of investment projects unless the public interest so requires, with the possibility of investing with a foreign partner in vital sectors.

This law stipulates that the state confirms the idea of monopolizing vital areas through Article 02 of it, which stipulates that the initiative for realizing investment projects in the vital sectors of the national economy

It belongs to the state and its affiliated bodies. However, the state can decide to invite private capital to carry out these projects, and specify for each case the modalities for the involvement of national or foreign private capital in these investments.

Investors, whether natural or legal persons, Algerians or foreigners, according to Article 4 thereof, have the right to invest in other sectors and to create or develop industrial or tourism establishments that increase the productive apparatus of the nation, after obtaining a prior license from the administrative authorities.

Article 5 stipulates that the state can have the investment initiative either through mixed companies or by conducting tenders to create specific institutions.

This order also provided for the granting of guarantees and privileges for investment, as the guarantees are equality before the law, especially equality before the tax law in accordance with Article 10, and the right to transfer funds and net profits in accordance with Article 11.

The concessions were characterized by being tax related to the complete, partial or diminishing exemption from the transportation fee with compensation, the real estate fee **(for a period of ten years)** and the granting of a reduced rate of the gross unique fee on production incurred from the equipment funds or the return of the fee related to the furniture of the equipment made in Algeria, and the postponement of the collection of customs duties And the total unique fee on production associated with the equipment funds necessary to realize the project, in addition to the complete, partial or diminishing exemption from the fee that accrues from industrial and commercial profits within a period not exceeding five years, and the annual amount of profits does not exceed **20%** of the invested private capital according to what It was stipulated in Article 14.

In addition to a number of special benefits, such as benefiting from a reserve guarantee granted by the Algerian Fund for Development on behalf of Algeria, to facilitate obtaining short-term bank advances against an industrial mortgage to finance the manufactures or stocks considered necessary for the development of Algeria.

Benefiting from a guarantee that the rate of some of its funds granted for a medium or long term does not exceed the maximum number that is determined when the license is granted.

Bearing in mind that these guarantees can only be granted on the condition that the institution's funds cover a reasonable percentage of the value of the exploitation possibilities, and that they are in accordance with decisions issued by the Minister of Finance and Planning.

Despite the regulation of the **1966** law serving foreign investment, it did not carry the real political will to open national and foreign private investment.

And he failed to attract foreign investors because he was stipulating the nationalization agreement, and the resolution of disputes was subject to the courts and Algerian law.

c- The Law of Establishment and Operation of Mixed Economic Companies of 1982:

Algeria confirmed in the law related to the establishment and functioning of mixed economic companies for the year **1982** under No. **82/13** dated **09/28/1982**, (1982 ، 13 /82 القانون رقم) its intention to adopt a form of foreign investment, and to set the legal framework for **“mixed companies between national and foreign capital”**.

And subjecting it to national development plans, technology transfer, and enabling the state to exercise control, especially applying the banking supervision system to the investor.

This law clarifies the percentage of participation of foreign companies, which cannot exceed **49%** of the capital of the mixed company, while the remaining **51%** represents the percentage of local participation **(Article 22)**. Mixed companies benefit from a set of different incentives, which can be summed up in tax exemption. Real estate for a period of five years and from the tax on industrial and commercial profits for a period of the first three fiscal years... **(Article 12)**

This law also provides guarantees to foreign parties such as the right to participate in the management and decision-making bodies, and the guarantee of the right of transfer.

What can be seen is that the Algerian legislator tried, through this law, to rectify the shortcomings of Ordinance No. **284/66**, which includes the amended and supplemented Investments Law, by creating mixed-economic companies.

However, despite his consecration of the partnership system with the foreign investor, he subjected it to national development plans, transfer of technology and enabling the state to exercise control.

He was not left free to choose the legal form of the company, which he restricted to the joint-stock company, while the National Socialist Corporation retained the right to direct and monitor the activity of the mixed economy company and its management, considering it a branch of the joint-stock socialist corporation.

In addition to presenting the disputes of the mixed-economy company generated by its relations with the socialist institutions to compulsory arbitration stipulated in Order No. **44/75** of **17/6/1997**, and the disputes resulting from the relations between the founding members of the mixed-economy company are referred to the Algerian courts in accordance with Algerian law.

In addition to Law No. **82-11** dated **08/21/1982**, which is one of the first laws that came to meet Algeria's legislative needs in the field of private national investments , (1982 ، 11 /82 القانون رقم)

In addition to the law of companies with a mixed economy, the authority, on another level, reformed the hydrocarbons law pursuant to Law No. 14/86 dated 13 Dhu al-Hijjah 1406 corresponding to 19 August 1986, related to exploration and research in hydrocarbons, exploitation and transporting them by pipelines, which was relatively successful in attracting investments. The foreign private sector, whose number has reached more than 30 contracts, may explain this success by the profitability of this sector compared to the rest of the other sectors in terms of preferential advantages.

Then came Law No. 25-88 of July 12, 1988, specifying the modalities for directing national private economic investments, (1988 • 25 /88 القانون رقم).

Despite this, investment remained narrow due to the observing role played by the state, and considering it as an integral component of the public sector only.

However, with the events of October 1988, it was important to reconsider the investment policy and approach to the national economy and carry out structural reforms to restore the efficiency of public institutions and find solutions to indebtedness, unemployment, the consequences of the oil crisis and international pressures from the International Monetary Fund.

This year, the state passed the law on directing national private investment, which repealed 82-11 related to national private investment.

It is noted on previous legislation that it involved an economic and legal distinction between the foreign and local investor on the one hand, and the public and private investor on the other hand, and this until the nineties with the issuance of the Monetary and Loan Law of 1990.

2.2 Second Subtitle: The nineties phase.

Algeria has witnessed multiple economic reforms, which were generally manifested in the liberalization of the economy through a number of legal guarantees, which would qualify the legal system for the transition to a capitalist system in which the principle of freedom of investment plays a fundamental role, through the following:

2.2.1 The constitutional guarantee for investment:

The 1996 Constitution included several principles that encourage investment, such as Article 19, which stipulates that regulating foreign trade is the prerogative of the state, and it expressly stipulates that freedom of trade and industry is guaranteed, and is practiced within the framework of the law in accordance with Article 37 of this Constitution.

Thus, at the end of the nineties, Algeria abandoned several concepts that discourage investment, such as the trade control system, and constitutionally enshrined freedom of trade and industry. This change was a quantum leap that allowed the adoption of many concepts supporting investment freedom that could not have been used previously, and perhaps the reason for that The almost complete absence of foreign investment in Algeria is due to the social, economic and political situation at the time.

2.2.2 The legislative guarantee for investment:

Given the developments in Algeria, it was important at that time to develop the economy, and to issue a series of legal texts working to attract the largest possible number of foreign investments, to face the difficult circumstances.

The bad situation that Algeria witnessed, and to get rid of the crises resulting from the change in approach and economic structure, and to create economic activities that will have a social impact.

For this reason, this stage witnessed laws and decrees to encourage investment, including:

a. The Money and Credit Law.

Law No. 90/10 of April 14, 1990, (1990 • 10 /90 القانون رقم) related to money and credit, is considered among the most important basic legislative laws for reforms, as the ultimate goal of the law was to regulate the banking and financial sector, while giving importance to the position of the Algerian banking system, in addition to that it is considered as a new regulation to deal with files Foreign investments at the level of the Bank of Algeria, and the Monetary and Loan Council was entrusted with the task of issuing decisions corresponding to the projects submitted, and from it the Monetary and Loan Law is not a law for investment, but it is related to it as it regulates the exchange market and the movement of capital.

It can also be considered as a qualitative leap in the embodiment of the process of economic reforms set by Algeria to move from a planned economy to a market economy.

The first thing that the Monetary and Loan Law came with in the field of foreign investment was to replace the nationality criterion that differentiates between foreign and local investors, with the residence criterion that differentiates between residents and non-residents.

Where non-residents are authorized to transfer capital to Algeria to finance economic activities that are not expressly allocated to the state or its affiliated institutions or to any legal person expressly referred to under a legal text, and thus non-resident investors can establish companies that they fully own and without the participation or contribution of institutions. The Algerian.

In addition, this law, in its article **183**, authorizes non-residents to transfer capital to Algeria to finance any economic activities, and encourages the establishment of investment relations between national and foreign dealers in the desire to create and promote new jobs or improve the level of Algerian executives and employees, and to purchase technical and scientific means and the optimal utilization locally of patents. Invention, registered trademarks, and protected marks in Algeria, and in Article **184**, guarantees were established regarding methods of transferring and transferring heads.

Funds, entrances and benefits for foreign investors, as for residents in the homeland, they have the right to transfer their money abroad in order to ensure the financing of complementary activities abroad for their work in Algeria.

Accordingly, this law can be described as the basic building block in liberating the economy from its constraints, expressing the legislator's retreat from the idea of subjecting economic development to the requirements of sovereignty and relied on an approach in which he gave priority to the economic aspect at the expense of the political aspect (14 ص 2017، حساين)، on the one hand, and on the other hand the successful law by relying on neglect Distinguishing between ownership of capital or nationality, and not differentiating it between the national and foreign investor, but rather generalizing it to residents and non-residents, in addition to the law containing a number of guarantees such as the freedom to transfer profits, as well as its guarantee of foreign investments that have a positive impact on the national economy, such as job creation, transfer technology.

b. Legislative Decree No. 93/12. (المرسوم التشريعي رقم 12 / 98 ، 1998):

During this era, the Investment Promotion Law was issued under No. **12-93** issued on October **5, 1993**, which only represents the broad outlines of the legal and legislative organization in the field of investment encouragement, and it was not possible to measure its legal and economic effects and truly estimate them only after the issuance of the relevant implementation texts, in addition This led to the issuance of other laws related to economic reforms, such as the competition decree, the stock exchange and movable values decree, and the privatization decree (يوسفي ، 1993).

The Investment Promotion Law of **1993** aimed primarily at stimulating and increasing foreign capital inflows, mobilizing huge national capital, reviving the economic machine and creating the appropriate climate to push and activate national and foreign investments in a way that could stimulate economic activity and create new job positions.

This legislative decree came three years after the issuance of the Monetary and Loan Law, and it shows the will the clear policy of the state in order to promote investments, as well as to achieve the policy of economic openness, which brought about several changes, and thus it is based on the following:

- Equal treatment for all investors.
- Exempting the national and foreign private sector from the restrictions that were under the previous laws, so that it is limited to the permit instead of the approval procedures that were before.

Devoting the principle of easy movement of money.

- Granting many incentives and privileges to investors in order to encourage and develop investment.

It is noted that this law opened the way for foreign capital, as it is authorized to invest in all sectors for the production of goods and services, except for the strategic sectors of the state, such as the fuel sector, as it opened the way for participation and partnership in projects due to the state's need to invest in this sector.

The most important thing that distinguishes the laws and decrees of this stage is giving priority to the private sector, unlike the previous stage. However, what is wrong with these laws and decrees is that they were partial, and the evidence for this is the many amendments that I knew.

c. other laws:

This time period was characterized by the issuance of a number of important laws, which played a significant role in order to complete the course of Algerian reforms aimed at promoting investment, along the lines of:

- Executive Decree No. **94-319** issued on **10/17/1994** containing the terms of reference, organization and functioning of the Investment Promotion, Support and Follow-up Agency, Official journal **10/19/1994**.
- Executive Decree No. **320-94** containing the conditions and modalities for designating free zones, controlling their borders, privileges, and managing them, and including how to conclude an agreement related to assignment of exploitation
And the management of the free zone, which is an application of the provisions of Article **34** of Legislative Decree No. **12-93** issued on **10/5/1993** directed to promote investment.
- Executive Decree No. **321-94** issued on **10/17/1994**, which came in application of the provisions of Article 24 and specified the conditions for defining and controlling the borders of special areas, Official Journal **10/19/1994**
- Executive Decree No. **322-94** issued on **10/17/1994**, related to the assignment of private domain lands located in private areas within the framework of investment promotion, Official Journal **10/19/1994**.
- Executive Decree **No. 323-94** issued on **10/17/1994**, specifying the minimum amount of private funds destined for investment. It is also worth noting the first two legislative decrees **No. 93-08** issued on **04/25/1993** amending and supplementing Decree Law No. 75-59 Issued on **9/26/1975** containing the Commercial Law, Official Journal **No. 27**.
- Legislative Decree **93-09 of 04/25/1993** amending and supplementing Decree Law **66-154 of 06/06/1966** containing the Civil Procedures Code, Official Journal No. 27

2.3 Third Subtitle : the post-nineties period.

The process of enshrining the freedom of investment in Algerian law has witnessed several developments related to the circumstances that Algeria went through, and what can be seen is that investment was enshrined and guaranteed in the beginning in an implicit way, to turn into an explicit enshrinement, which is shown to us through the following:

2.3.1 The constitutional guarantee for investment:

Constitutionalization of investment means a clear declaration and guarantee from the state to raise the value of investment and to provide a guarantee to all economic actors that it is a firm and sublime constitutional rule.

Article **19** of the **1996** Constitution stipulates that regulating foreign trade is the prerogative of the state, and that the law determines the conditions for practicing and controlling foreign trade. As stated in Article 37 thereof, freedom of trade and industry is guaranteed and practiced within the framework of the law.

As for the **2016** constitution, Article **21** of it stipulates that regulating foreign trade is the prerogative of the state, and that the law defines the conditions for practicing and monitoring foreign trade.

And it was stated in Article **43** of it that the freedom of investment and trade is recognized and practiced within the framework of the law.

Whereas the **2020** Constitution in its Article **23**, states that the state regulates foreign trade, and that the law defines the conditions for practicing and monitoring foreign trade.

As stated in Article **61**, freedom of trade, investment and enterprise is guaranteed, and is practiced within the framework of the law.

Here we also note that the founder of the Algerian constitution once again used the term investment and combined it with trade and enterprise.

2.3.2 The legislative guarantee for investment:

This period was characterized by the return of political and security stability and an improvement in the economic conditions, which necessitated keeping pace with these new conditions with the issuance of a large package of laws, decrees, and orders, all of which go into the depth of reforms and affected all sectors without exception.

Among the legislations that dealt with the issue of investment are the following:

a. Ordinance No. 01/03 of August 20, 2001 relating to investment development(2001 ، المرسوم الرئاسي رقم 03 /01):

This matter related to the development of investment came in order to give a new impetus to the march of investments in Algeria, after the negative results left by Legislative **Decree No. 93/12**, as the experience indicated some shortcomings and shortcomings in it, as long as it would not achieve what was expected of it, although Of the guarantees and incentives that were provided in it.

This matter also defined investment as the acquisition of assets that fall within the framework of developing new activities, expanding production capabilities, rehabilitation or restructuring, and as contributing to the capital of an enterprise in the form of cash or in-kind contributions, and restoring activities within the framework of partial or total privatization according to to Article 2 of this Order.

Therefore, Order **No. 01/03** related to the development of investment came in a new way to enhance incentives, encourage more investments, and avoid the shortcomings of the previous legislative decree.

Among the additional incentives and guarantees within Ordinance **No. 01/03** related to investment development, we find that the provisions of the new law included many additional incentives and were characterized by confirming what was granted by the previous law and clarifying its provisions categorically.

The new law was based on basic principles, the most important of which are:

- Adopting the principle of complete freedom for investment and canceling any kind of prior authorization.
- Equality among all investors in rights and duties, and subjecting national and foreign investment to the same legal rules, starting from the establishment of the investment until its liquidation.
- Not to apply revisions or cancellations that may occur in the future to the investments made within the framework of this order, unless the investor explicitly requests that.
- Facilitating the launch of the investment process by creating a framework to deal with investors.
- Protection against nationalization, administrative confiscation, or any measure of this kind, and the law guarantees the investor the freedom to transfer profits and capital at all times.

The submission of every dispute between the foreign investor and the Algerian state to the competent judicial authorities, except in the case of bilateral or multilateral agreements concluded by Algeria related to reconciliation and arbitration, or in the case of a special agreement providing for settlement or reaching an agreement based on private arbitration.

The Algerian legislator also granted two types of advantages, based on Articles **09** and **10** of Order **01-03**, and included them within the two systems: the general system and the exceptional system, on the grounds that in addition to the investor benefiting from the tax, quasi-tax and customs incentives stipulated within the framework of the general system, In the framework of the exceptional regime, he benefits from special privileges and exemptions, especially when he uses a special technology that preserves the environment, protects natural resources, saves energy, and helps achieve comprehensive development.

b. The most important tax, quasi-tax and customs incentives granted to investors.

It can be summarized as follows:

- Applying the reduced rate in the field of customs rights with regard to imported equipment, which is directly involved in the realization of the investment.
- Exemption from value added tax, with regard to goods and services that are directly involved in the realization of the investment.
- Exemption from the ownership transfer fee in return for real estate acquisitions made within the framework of the relevant investment.

As for the special exceptional system, privileges have been granted for the benefit of investments made in areas whose development requires a special contribution from the state, as well as investments of special importance for the national economy, especially when special technologies are used that preserve the environment and protect natural resources, and save energy and is conducive to sustainable development

These investments benefit from the following special advantages:

- Exemption from paying property transfer rights in return for all real estate acquisitions made within the framework of investment.
 - Applying a fixed right in the field of registration at a reduced rate of **0.2%** with regard to articles of incorporation and capital increases.
 - The State shall partially or fully undertake the expenses, after being evaluated by the Agency, with regard to the works related to the basic facilities necessary for the realization of the investment.
 - Exemption from value-added tax (**TVA**) with regard to goods and services that are directly involved in the realization of investment, whether they are imported or acquired from the local market, when these goods and services are intended to perform operations subject to value-added tax.
 - Applying the reduced rate in the field of customs rights with regard to imported goods that are directly involved in the realization of the investment.
 - Exploitation start-up phase: After seeing the start-up of the exploitation, the following benefits are granted:
 - Exemption for **10** years from actual activity from corporate profit tax (**IBS**), from gross income tax (**IRG**) on dividends, from spot payment (**VF**), from fee on Professional Activity (**TAP**).
 - Exemption for a period of **10** years, starting from the date of acquisition, from real estate tax on real estate property that falls within the framework of investment.
- Granting additional benefits that improve or facilitate investment, such as deferral of deficit and amortization periods.
- It is possible to refer to the Finance Law of **1996**, and Article **138** of the Direct Tax Law, as well as Article **309** of the Tax Law, which included several advantages for productive investors who export goods and services to foreign markets, including:
- Exempting companies selling goods and services for export from paying the tax imposed on their profits temporarily for a period of five (**05**) years.
- Exempting companies from performing VF payments on a temporary basis for a period of five (**05**) years.
- The possibility of the exporter benefiting from discounts of about **50%** granted by the national companies for maritime and air navigation, and those granted by the ports, in the field of cargo transportation.

c. Directive Law for the Promotion of Small and Medium Enterprises No. 18/01 issued on December 12, 2001 (القانون رقم 18 /01 لسنة 2001):

This law deals with defining small and medium enterprises and the role they can play in stimulating development, and defining the necessary measures to assist, support and promote them. Under the provisions of this law and the regulatory and executive decrees, a large number of enterprises were established.

In a later period came Executive Decree No. **373/02** issued in November **2002** related to the establishment of the Loan Guarantee Fund for Small and Medium Enterprises in order to provide the necessary guarantees for obtaining bank loans for small and medium enterprises.

Ordinance No. **01/04** corresponding to August **20, 2001** was issued relating to the organization, management and privatization of public economic enterprises.

In addition to this order, Law No. **17/01** of October **21, 2001**, which includes the organization and privatization of economic public enterprises, and primarily the approval of the President of the Republic on the aforementioned order.

It should be noted that Executive Decree No. **354/01** defines the Privatization Oversight Committee, its powers, and the modalities of its organization and functioning.

In view of the many problems that faced the implementation and application of this law, the legislator directed to issue the directive law for the development of small and medium enterprises on **01/10/2017**, which came with new provisions aimed at stimulating economic growth, improving the structure of small and medium enterprises, encouraging small and medium enterprises and improving their competitiveness and capabilities in the field of Export and upgrade handling culture.

d. Ordinance 03/11 of August 26, 2003, relating to money and credit.

The **2003** amendment is a new formulation of the Algerian banking law, through which new mechanisms were adopted in the management of the banking system, and Law **No. 90/10** related to money and credit was repealed.

It also allowed a review of the organization and functioning of the banking sector, especially with regard to the role of the Bank of Algeria and the Monetary and Loan Council, as well as the process of monitoring banks and financial institutions, as well as exchange rules and capital movements.

The most important of what came in this matter with regard to encouraging foreign direct investment, we mention:

- Non-residents are allowed to establish banks and financial institutions on their own or jointly with residents, as Articles **84** and **85** of Order No. **03/11** stipulate that foreign banks and financial institutions are allowed to open branches in Algeria, provided that reciprocity is done.
- Permitting the transfer of income, interest, and re-transfer of capital, and this is expressly stipulated in **Article 126** of Order No. **03/11** “Capital and all results, income, interest, revenue and other funds related to financing are allowed to be re-transferred and enjoy the guarantees provided for in International agreements signed by Algeria.

Ordinance **04/10** of August **26, 2010** amending the Code of Money and Credit:

This matter came to confirm the responsibility of the Bank of Algeria to ensure the safety and security of the banking system, by strengthening the legal framework to maintain financial stability, which is confirmed by Article 2.

e. Law No. 16-09 related to investment promotion.

This law was adopted with the aim of creating a new dynamism in Algeria's policy towards foreign investment and the ability to attract it, and to rectify the situation, especially after the significant drop in fuel prices in global markets, and in order to express the willingness of the Algerian authorities to encourage foreign investment and work to stimulate it again, the order was cancelled. No. **03-01** and its replacement by Law No. **09-16** related to investment promotion (2016 ، 09 /16 رقم القانون), with the exception of Articles **6, 18** and **22** thereof, which introduced many amendments to the provisions regulating investment in general and foreign investment in particular, with the aim of creating a new dynamism in investment projects in Algeria and raising its capabilities in attracting foreign investors such as:

Introducing flexibility in the rules of foreign investment treatment, with the aim of ridding it of discriminatory treatment, and by subjecting all types of investments to similar treatment rules at the administrative level.

Law No. **16-09** was also concerned with the issue of benefits and tax treatment for investment, assigning 16 full articles to it, through which it introduced many amendments to the financial and tax concessions offered by the state to both national and foreign investment.

Law No. **16-09** also significantly simplified the procedures for benefiting from benefits, as it abolished the investment authorization system and its obligation in the event of requesting benefits, and replaced it with the registration procedure through the text of Article 4 of it as follows: This law is for registration with the National Agency for Investment Development, and it also abolished the request for benefits and stripped the agency of its wide discretionary power when evaluating the eligibility of projects to obtain benefits (419 ص، 2016 ، أوباية مليكة).

Making the registration procedure authorizes, by the force of law, and without any other procedure, all foreign investments that are not included in the negative lists to benefit from the common benefits and the advantages prescribed for the investments that are made.

In the regions of the south and the high plateaus, each region for its development requires a special contribution from the state and some additional advantages, as the case may be (2017 ، 102 / 17 رقم المرسوم التنفيذي).

Knowing that according to Article **14** of Executive Decree No. **102-17**, when the value of the investment is equal to or greater than five billion dinars, or the investment is of particular importance to the national economy, he does not benefit from the benefits except after obtaining the prior approval of the National Council. for investment.

Also, Law No. **16-09** did not deviate from the forms of advantages approved by the previous law, and expanded the scope and size of benefiting from some of them as follows:

- Common benefits granted to all types of investments eligible for benefits.
- Additional benefits granted for the benefit of investments made in privileged activities and activities that create job positions

- Exceptional privileges granted to the benefit of investments of particular importance to the national economy.

He also made some concessions on the principle of protectionism endorsed by the repealed law, canceling the distinction between imported goods and those produced locally, and making investments benefit during the completion phase from exemption from value-added tax on imported goods similar to those acquired locally if these goods enter directly. in completing the project.

Not to mention that it put an end to the direct interference of the National Investment Council in granting exceptional benefits, as it abolished the possibility of the latter's intervention in granting exemptions and reductions for rights, taxes, or fees on the prices of produced commodities that fall within the emerging industrial activities, according to Article 5 of **Law 13-18**, which includes the Law Supplementary Finance for the year **2018**.

Also, in order to inspire confidence in the hearts of foreign investors for a renewed demand for investment in Algeria, the law approved investment guarantees and collected them all in Chapter Four under the title of guarantees granted for investments, through which he stressed the protection of the property of every investor from dangers, to include protection from expropriation and appropriation , as Article 27 of it states that it is an addition to the rules governing removal Ownership, investments made can not be the subject of appropriation except in cases provided for by the applicable legislation.

He also acknowledged that every investment benefits from the principle of legislative stability, and reformulated other guarantees directed to the foreign investor based on the principle of fair and equitable treatment instead of the principle of non-discrimination, in addition to the right of the investor to resort to alternative methods of settling disputes while expanding the scope of this right in an implicit and unintended manner, reconsidering the guarantee of capital transfer.

Despite what has been previously explained, this law, in turn, was not able to rid foreign investment of all the obstacles imposed on it, ignoring the freedom of investment enshrined in the constitution, and it was not able to cancel the quantitative restriction imposed on it and free it from rule **49-51,1** as it approved the right of pre-emption and expanded the scope of its application².

f. Law No. 18-22 of 07/24/2022, related to investment.

This law abolished the provisions of the previous one, Law **No. 16-09** with the exception of Article 37. It aims to neutralize the rules that regulate investment, the rights and obligations of investors, and the incentive systems applied to investments in economic activities for the production of goods and services performed by national or foreign natural or legal persons. Residents or non-residents.

Article 02 of it added to clarify the purpose of the investment:

- Developing priority activities sectors with high added value.
- Ensuring sustainable and balanced regional development.
- Valuation of natural resources and local raw materials.
- Giving preference to technological transformation and the development of innovation and the knowledge economy.
- Generalization of the use of modern technologies.
- Activating the creation of permanent job positions and upgrading the competencies of human resources.
- Strengthening and improving the competitiveness of the national economy and its ability to export.

Also subject to the provisions of this law are all acquisitions of tangible or intangible assets that fall directly within the activities of producing goods and services within the framework of establishing new activities, expanding production capabilities and or rehabilitating production tools, as well as contributing to the capital of an enterprise in the form of cash or in-kind shares, as well as when transferring activities from abroad.

And Article 5 of it defined the investor as every natural or legal person, national or foreign, resident or non-resident, in the concept of the regulation of the exchange, who makes an investment, and here we wonder about the reason for adding this condition related to the concept of exchange, as this law distinguished between the investment of construction, expansion and rehabilitation.

3. Third Headline: The new mechanisms that came in the new law related to investment 18/22.

It is important to recall that the adaptation of this law was based on the directives of the President of the Republic, which he gave during the Council of Ministers convened on March 13, 2022, related to:

- Enshrine the principle of freedom of investment and initiative;
- The stability of the investment legislative framework for a period of no less than ten years;
- Simplifying procedures and reducing the scope of the administration's discretion in dealing with investment files, especially those that rely on self-financing;
- Strengthening the powers of the one-stop shop to process investment files within the specified deadlines;
- Limiting tax concessions and incentives to directing and supporting investment in some sectors or areas of special interest, from the state and not others;
- Adopting a pragmatic approach in dealing with foreign direct investments, working to attract investments that guarantee technology transfer and job creation.

The proposals that were submitted to the Prime Minister by various representatives of employers' organizations and the National Economic, Social and Environmental Council, as well as the outputs of the National Conference on Industrial Revival, were also taken into account in preparing the text of this law.

Such goals require a re-examination and treatment of the rules that constitute a framework for building this draft law in three basic elements:

3.1 First Subtitle: Regarding the elements related to the investor.

The new law includes several measures and guarantees directed at the investor. It seeks to enhance confidence in the legislative framework for investment, enhance the attractiveness and raise the competitiveness of Algeria as an investment destination, through:

3.1.1. Enshrine the principle of freedom of investment, transparency and equality in dealing with investments, based on:

- a. Freedom to choose investment, which is a constitutionally enshrined principle.
- b. Transparency and equality in dealing with investment, which enhances investor confidence in the legal system.

3.1.2. Enshrine the guarantees and rights directed to investors in the field of investment, through:

- Freedom to choose the investment program, while respecting the legislation and regulation related to the exercise of economic activities;
- The possibility of the investment project benefiting in this law from the real estate belonging to the private property of the state;
- Ensure the transfer of the invested capital and the proceeds generated from it by foreign investors, provided that their value is equal to or greater than the minimum ceilings of the contributed capital determined according to the total cost of the project;
- Ensuring the protection of the **intellectual property rights** of the investor in accordance with the applicable legislation;
- Exemption from foreign trade and bank settlement procedures for foreign in-kind contributions in the form of new commodities;
- Ensuring the right of the investor to resort to the Higher National Committee for Appeals specialized in the field of investment, set up at the level of the **Presidency of the Republic** and made up of judges and experts specialized in economics and finance, while specifying treatment deadlines that are binding on the concerned departments, in addition to his right to resort to judicial authorities; It is a new matter in this law, and this indicates that it gives great importance to investment, in addition to setting deadlines for responding to appeals, which do not exceed one month from the date of its notification, in addition to the possibility of filing a judicial appeal before the competent judicial authorities.
- **Subjecting every dispute between the foreign investor and the Algerian state** caused by the investor or due to a measure taken by the Algerian state to the competent Algerian judicial authorities.

Taking into account the provisions of bilateral or multilateral agreements ratified by the Algerian state in the field of investment; Its provisions relate to **reconciliation, mediation, arbitration or the conclusion of an agreement** between the National Agency for Investment

Development acting on behalf of the State and the investor, allowing the parties to resort to arbitration.

- **The non-retroactivity of this law**, so that the effects resulting from the revision or repeal of this law that may occur in the future do not apply to the investment made within the framework of this law, unless the investor explicitly requests that.

-The interesting thing is that the Algerian legislator titled Chapter Two with guarantees and duties, meaning that at the same time as granting guarantees and benefits, the investor must abide by the duties stipulated in Article 15, which is to ensure respect for the applicable legislation and standards, especially those related to environmental protection, public health and competition. Work and transparency of accounting, fiscal and financial information, with the provision of all necessary information required by the administration to follow up and evaluate the implementation of the provisions of this law.

- Knowing that this law defines the agencies in charge of investment, namely the National Council for Investment and the Algerian Agency for Investment Promotion.

- Ensuring the right of the investor to transfer or assign the investment after the approval of the Agency;

Not to put the investment under harness by the administration except in cases provided for in the law, with fair and equitable compensation; According to Article 10, the investment made cannot be harnessed by the administration except in the cases stipulated in the law, and the harness entails fair and equitable compensation, which makes us wonder about the purpose of this article, and whether it can be considered among the investment disincentives in Algeria.

- Not to prejudice the rights and benefits acquired under the previous legislation of this law.

In addition to these guarantees and rights, the investor is obligated to:

- Ensure respect for applicable legislation and standards, particularly those relating to the environment and public health;

Provide the necessary information required by the administration to follow up and evaluate the implementation of the provisions of this law.

3.1.3. Giving a specific concept of investment, as follows:

- The acquisition of tangible or intangible assets within the activities of producing goods and services within the framework of establishing new activities, expanding production capacities and/or rehabilitating production tools;

Contribution to the capital of an enterprise in the form of cash or in-kind shares;

Transfer of activities from abroad.

4. Establishing a single entity to deal with the investor represented in the one-stop shop that includes representatives of the various bodies concerned with investment.

5. Providing information related to the offer of real estate in terms of granting lands belonging to private property to the state and their availability, to investors benefiting from the advantages stipulated in this draft law;

This measure makes it possible to place all information related to the availability of the property at the disposal of the investor through the bodies in charge of the property, in particular, through the digital platform for the investor operated by the Agency.

3.2. Second Subtitle: With regard to the guiding elements of the institutional framework in charge of investment.

These measures directed towards the agencies entrusted with the implementation of the national investment policy, as well as with the accompaniment and follow-up of the investment process, seek to improve the performance and efficiency of the interests of these agencies. These measures relate to:

3.2.1. Reconsider the powers of the National Council for Investment (CNI), by limiting them only to the apparatus of proposing the state's strategy in the field of investment, ensuring its consistency and evaluating its implementation. It also prepares an annual evaluation report that is sent to the President of the Republic;

3.2.2. Reorganizing the National Agency for Investment Development, with changing its name to give it an Algerian character at the international level to become the "Algerian Agency for Investment Promotion", placing it under the authority of the Prime Minister, as well as giving it

the role of real promoter and accompaniment to investors. The agency, in coordination with the departments and agencies concerned with investment, is tasked with:

- a. Promote and evaluate the attractiveness of investment in Algeria, as well as abroad, in contact with the Algerian diplomatic and consular representations abroad;
- b. Informing and sensitizing the business community;
- c. Recording and processing investment files and accompanying the investor in completing the procedures related to his investment.
- d. Ensure the functioning of the investor's digital platform;

3.2.3. Establishing a single window directed to major projects and foreign investments, in order to assist and accompany these important investments, and it shall have a national competence and the only interlocutor with which the investor deals, and it shall be entrusted with all necessary measures to embody and encourage major investment projects and foreign investments;

3.2.4. Enhancing the role of the decentralized one-stop-shop to serve as the sole interlocutor for investors at the local level, and to undertake tasks of assisting and accompanying investors in realizing their projects;

3.3.5. Rehabilitate and assign representatives of agencies and departments at the single window level to implement procedures related to:

- a. Realization of investment projects;
- b. Granting, within the deadlines set by the legislation and regulation in force, all decisions, authorizations and documents related to the realization and exploitation of the investment project registered at the level of single windows;
- c. obtaining real estate destined for investment;
- d. Follow-up commitments written by the investor.

3.2.6. Creating a digital platform for the investor, at the level of the Algerian Agency for Investment Promotion, that allows providing all necessary information to the investor, especially with regard to:

- a. investment opportunities in Algeria;
- b. agencies in charge of investment;
- c. the available real estate offer;
- d. Incentives and advantages associated with investment as well as related procedures.

Interconnected with the information systems of the investment agencies and departments, this platform allows the dematerialization of all procedures, transparency in the processing of files, accompaniment and follow-up of investments starting from their registration and during their exploitation period, and carrying out all investment-related procedures via the Intranet, in particular:

Enterprise establishment and investment registration;

- Processing and following up the investment file;
- Filing applications and delivering all documents, contracts and licenses related to investment projects;
- Filing and following up appeals.

3.3. Third Subtitle: With regard to the elements that protect the interests of the state.

This law included measures that fall within the protection of the interests of the state by directing incentives and benefits through a new structure of incentive systems for investment, with the aim of directing and supporting investment in some sectors or areas that receive special attention from the state and produce an effect that is tantamount to investment profit, not state spending.

These measures are, in particular, the following:

3.3.1. Reviewing the structure of incentive systems within investment policies and directions

This draft law proposes a structure for the incentive systems granted to investment projects and the conditions that qualify for benefiting from the benefits, according to:

- For its impact on the development of sectors and the development of regions across the country;
- The added value of these investments in the national economy.

Whereas, benefits and incentives have been approved within three specific incentive systems as follows:

a. The incentive system for priority sectors:

Be able to benefit from the incentive system for priority sectors, investments that enter, especially in the following sectors of activity:

- mines and quarries;
- Agriculture, aquaculture and fishing;
- Industry, food industry, pharmaceutical industry and petrochemical industries;
- services and tourism;
- New energies and renewable energies;
- Knowledge economy and information and communication technologies.

b. the incentive system for regions to which the state attaches special importance:

You benefit from the incentive system of the regions, the investments made, in an activity that is not excluded from the advantages stipulated in this draft law, at the level of:

- sites belonging to the High Plateau, the South and the Great South;
- Sites whose development requires special accompaniment from the State;
- Sites that have the potential of valuable natural resources.

c. The incentive system directed to investments of a structured nature:

In order to give impetus to the national economy, utmost importance will be given to structured investment projects, with high potential for wealth creation and job creation, which would raise the attractiveness of the territory and be a driving force for economic activity for sustainable development, through the allocation of a stimulating system for them.

Determining criteria and qualification of these investments through regulation with the participation of all relevant ministerial sectors.

It should be noted that the draft of this law proposes, within the framework of these aforementioned incentive systems, advantages that differ from one system to another, and takes into account the importance of investment, the subject of benefiting from these advantages, as well as its location, which allows stimulating and pushing investment towards:

- Sectors of importance to the national economy;
- Developing areas that require accompaniment from the state and making them more attractive for investment.

The proposed advantages are mainly the following:

- Fiscal and quasi-fiscal exemptions for the completion stage:
 - for a period of **3** years for investments initiated in priority sectors;
 - For a period of **5** years for investments under the regions system and the structured investment system.

Structured investments can benefit from the state's accompaniment by undertaking, in whole or in part, the preparation works and the basic facilities necessary for the realization of the investment, on the basis of an agreement prepared between the investor and the agency that acts in the name of the state, and the agreement is concluded after the approval of the government.

- Tax exemptions (tax on corporate profits and fees on professional activity) for the exploitation stage, for a period ranging from:

- From **3** to **5** years for investments made in priority sectors;
- From **5** to **10** years for investments made at the level of regions that the state attaches special importance to;
- From **5** to **10** years for structured investments.

The period of benefiting from the benefits of exploitation is determined on the basis of assessment networks, which take into account the objectives of this law as well as the criteria established for each incentive system.

For example, evaluation networks take some of the following standardizable evaluation criteria:

- ◊ The location of the investment project;
- ◊ jobs created;
- ◊ The cost of the investment project;
- ◊ Self-contribution to financing the project;
- ◊ The source of raw materials used in production.
- ◊ Project completion deadlines: the period of completion of the investment project was limited in order to prompt the investor to accelerate the completion works and engage in exploitation in the shortest time, and to take into account, in calculating the completion

period, the date of issuance of the building permit in cases where this license is required.

The extension of the period for benefiting from the completion benefits has also been limited to a period of twelve (12) months, with the aim, in particular, of avoiding financial re-evaluation of investment projects, renewable exceptionally once for the same period when the completion of the project exceeds a certain rate of progress.

3.3.2. This law also provided a number of guarantees, such as:

- a. The possibility of benefiting from lands belonging to the private property of the state in accordance with Article 6 thereof, with the obligation to place information related to the property at the disposal of the investor by the bodies in charge of the property, especially through the digital platform for the investor.
- b. Exemption from foreign trade and bank settlement procedures, foreign in-kind contributions that fall exclusively within the framework of transferring activities from abroad.
- c. Exemption from foreign trade and bank settlement procedures for new commodities that fall within the external in-kind quotas.
- d. Ensuring the state's protection of intellectual property rights in accordance with the applicable legislation.
- e. Protecting the investment from the effects resulting from the revision or repeal of this law that may occur in the future, unless the investor explicitly requests that.
Protection of investment from any harnessing by the administration, except in cases stipulated in the law, and such harnessing entails fair and equitable compensation.
- f. Benefiting from the guarantee of the transfer of the investor's capital and the proceeds resulting from it, the investments made starting from shares in the capital in the form of cash shares imported through the banking channel, and denominated in a freely convertible currency, issued regularly by the Bank of Algeria, and assigned to it in favor of it, and whose value is equal to or greater than the specified minimum limits. According to the total cost of the project, with acceptance as external stakes, the process of reinvesting in the capital for interests and dividends that are authorized for transfer in accordance with the applicable legislation and regulation.
- j. The right to appeal to a higher national committee for investment-related appeals established by the Presidency of the Republic, in addition to the right to litigation.

Conclusion:

The new investment law is nothing but a translation of the Algerian legislature's desire to lift the restrictions that were hampering investment under other previous laws, especially those related to administrative bureaucracy, lack of transparency, and discrimination in granting various guarantees and benefits, in addition to how to settle disputes if they occurred.

However, the question that remains is whether the national or local single windows will be in line with the new philosophy brought by the new investment law, and whether the time has come to exploit the Algerian human potential, with Algeria's population reaching 45 million people and a population growth rate estimated at about 2.2%, and the gross national income has reached \$3,200 per person

In addition to the location of the Algerian market, it can constitute a starting point towards other markets due to its geographical proximity to southern European and African countries.

In addition to the possibility of benefiting from the opportunities offered by the application of the partnership agreement with the European Union, and this market is characterized by the fact that it contains many raw materials and energy materials, as well as benefiting from the ZLECAF agreement and other attractive markets.

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