



LEGAL MECHANISMS AND INSTITUTIONAL APPROACHES TO INVESTMENT PROMOTION IN ALGERIA: AN ANALYTICAL READING OF LAW N^o. 22-18

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Abstract:

This study analyzes the legal mechanisms established to promote investment in Algeria, with a particular focus on Law No. 22-18. The research begins by examining the fundamental principles introduced by the Algerian legislator to ensure fairness, transparency, and equal treatment between domestic and foreign investors. These principles include the freedom of investment, as well as integrity and transparency in investment-related dealings. The paper then turns to the legal guarantees newly established under Law No. 22-18 as a means of encouraging foreign investment. These guarantees are classified into two main categories: substantive guarantees, which secure the rights and benefits of investors, and procedural guarantees, which aim to simplify and safeguard administrative processes. Finally, the study sheds light on the mandate of the Algerian Investment Promotion Agency, conceived as a key institutional mechanism for attracting and supporting investment. Its role extends to information dissemination, facilitation of investment projects, promotion and support services, management of incentives, and continuous monitoring of investors. Through this analytical reading, the paper highlights how these legal and institutional approaches seek to enhance Algeria's investment climate and harmonize it with international standards.

key words: Law N^o. 22-18, Investment, Algeria .

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Introduction

The concept of investment is inherently flexible, as it is shaped by the economic, political, and legal circumstances of each state. In recent years, this concept has undergone significant transformation in response to major global events, most notably the COVID-19 pandemic and subsequent international crises. Among these, the Russia–Ukraine conflict has had a particularly profound impact on global food security, with direct repercussions for Algeria as a developing country.

These developments have negatively affected the investment climate, prompting Algeria to pursue a new strategy aimed at fundamentally reforming its legal framework for investment. The shift marks a transition from a rent-based economy to a more diversified model, most notably through the enactment of Law No. 22-18 on investment, followed by implementing decrees, and the repeal of the previous Law No. 16-09 on investment promotion. This reform also seeks to stimulate economic recovery after a period of stagnation in foreign investment over the last five years.

In this context, the present study seeks to address the following central research question: What are the new legal mechanisms introduced by the Investment Law, and what role do they play in attracting foreign investment?

SECTION ONE: THE FUNDAMENTAL PRINCIPLES OF THE INVESTMENT LAW NO. 22-18

The Algerian legislator has introduced a set of fundamental principles governing investment, with the primary objective of ensuring integrity and equality of treatment between domestic and foreign investors. These principles are essentially embodied in the principle of freedom of investment and the principle of integrity and transparency in investment dealings. The following sections will examine the content and implications of these principles in detail.



First: The Principle of Freedom of Investment

With regard to the principle of freedom of investment, it was first introduced under the provisions of Legislative Decree No. 93-12 (Legislative Decree No. 93-12). This principle was later enshrined in the 1996 Constitution through Article 37 (Presidential Decree No. 96-438), which explicitly recognized freedom of investment and economic activity. Furthermore, it was reaffirmed in the 2016 Constitution under Article 43, which states that “freedom of investment and trade is guaranteed”.

This constitutional recognition demonstrates the progressive consolidation of the principle within Algeria’s legal system, elevating it from a legislative provision to a constitutional guarantee. By doing so, the Algerian legislator not only reinforced the legal protection of investment but also emphasized its central role in economic reform and development. It is recognized and exercised within the framework of the law (Law No. 16-01). Finally, the principle was reaffirmed in the provisions of the 2020 Constitutional Amendment, under Article 61, which stipulates that “freedom of investment, trade, and entrepreneurship is guaranteed and exercised within the framework of the law” (Law No. 20-01). Thus, with each constitutional amendment, the legislator seeks to broaden the scope of the principle of freedom of investment and trade, ultimately consolidating it in its new form as entrepreneurship. This development reflects Algeria’s effort to improve the investment climate and to align its domestic legal framework with universal principles embodied in international agreements.

Second: The Principle of Transparency and Equality in the Treatment of Investments

By examining Article 03 of Law No. 22-18 on Investment (Law No. 22-18), it becomes evident that the Algerian legislator has introduced a new principle, namely the principle of transparency and equality in the treatment of investments. Unlike in the repealed law, where it was merely considered a safeguard,

this principle has now become a fundamental pillar upon which the entire investment process relies.

The materialization of this principle is reflected, in particular, through the digital platform established under Article 23 of the same law and Article 28 of Executive Decree No. 22-289 (Executive Decree No. 22-298). The primary objective of these mechanisms is to ensure the effective implementation of transparency by promoting fair competition, guaranteeing impartiality in the assessment of investment applications, and fostering a genuine spirit of entrepreneurship within a stable and comprehensive framework.

Moreover, this principle contributes to improving communication between investors and economic authorities, thereby enhancing legal certainty, reducing administrative barriers, and consolidating Algeria's commitment to building a transparent and competitive investment environment aligned with international standards.

SECTION TWO: THE NEWLY ESTABLISHED LEGAL GUARANTEES FOR INVESTMENT

Within the provisions of Law N^o. 22-18 on Investment, the Algerian legislator has introduced the broadest set of guarantees, with the primary objective of encouraging foreign investment. These newly established guarantees consist, in particular, of a set of substantive guarantees as well as procedural guarantees, the details of which will be addressed as follows:

First: Substantive Guarantees

When addressing substantive guarantees, they encompass two main components. The first component consists of legal guarantees, which initially include the principle of legislative stability. The provisions governing this principle are set forth in Article 13 of Law No. 22/18 on Investment, wherein the legislator establishes the rule of legislative stability defined as “the temporal freezing of the investment law, starting from the



implementation phase after the signing of the contract or the investment agreement, and continuing until the completion of the investment project.”

This principle is grounded in the general contractual maxim “*pacta sunt servanda*” that is, *agreements must be kept* as enshrined in Article 106 of the Algerian Civil Code.

This is because the will of the contracting parties constitutes the source of the binding force of the contract, thereby preventing sudden legislative changes in investment laws that could generate apprehension among investors and deprive them of opportunities to achieve profit (K.Oumani, p507). The President of the Republic emphasized, in a press interview, that this law would not be amended for at least ten years or more. This measure aims to avoid legislative changes that, in the past, have exacerbated the concerns of foreign investors regarding investment in Algeria.

The legal guarantees also encompass the principle of intellectual property rights, which has been expressly introduced by the Algerian legislator as a new and innovative safeguard under Article 9 of Law No. 22/18 on Investment. This principle, which did not exist in the previous legislative framework, reflects a genuine political will to implement investment projects and to attract a greater volume of foreign investment in particular.

The second component of substantive guarantees consists of financial guarantees. These include, most notably, the investor’s right to compensation in cases of expropriation, as provided for under Article 10 of Law No. 22/18 on Investment. This safeguard materializes in the form of fair and equitable compensation in cases of expropriation, in accordance with the constitutional principles enshrined in the 2020 constitutional amendment, specifically Article 60(1), which stipulates that: “Expropriation shall only take place in accordance with the law and shall be subject to fair and equitable compensation.”

The content of this principle is further reinforced by the general rules of the Algerian Civil Code, in particular Article 677 (Hasiba Aliouat, 2016, p 157), which provides that: “Where the

State expropriates individuals for reasons of public utility, it is required to grant them fair and equitable compensation as redress for the expropriation and for the purpose of achieving public interest.”

The financial guarantees also include the guarantee of capital transfer. Capital, in this context, refers to “the value of the amounts owned by the project holder.” In this regard, the Algerian legislator, under Article 8 of Law No. 22/18 on Investment, has explicitly provided for the guarantee of the transfer of capital to and from abroad, while also expanding the scope of such transfers to include both the invested capital and the returns generated therefrom (Article 8 of Law No. 22/18). This mechanism is intended to facilitate the substantial inflow of foreign capital into the domestic market in a transparent and straightforward manner, free from opacity. The foreign investor is merely required to open a bank account in Algeria in order to manage the transfer of funds to and from the country through a localization number (*numéro de domiciliation*), which is processed by an authorized intermediary for the commercial transaction—investment being the most significant among them (Hasiba Aliouat, 2016, p 201). It has been stipulated that foreign currency shall be valued at the Bank of Algeria.

Second: Procedural Guarantees

With regard to procedural guarantees, these have been introduced with the aim of facilitating the investment process and combating bureaucracy through the updating of the legal framework governing investment activity. It is worth noting that such guarantees encompass two fundamental categories: administrative guarantees and judicial guarantees.

To begin with, administrative guarantees the first type of procedural guarantees—have been consolidated within the administrative system, which plays a significant role in attracting foreign investment. This system is embodied in both the National



One-Stop Shop for major projects and foreign investments as well as the decentralized one-stop shops.

As for the National One-Stop Shop for major projects and foreign investments, the Algerian legislator has established a new institutional structure within the Algerian Investment Promotion Agency (AIPA). Pursuant to Article 19 of Law No. 22/18, this body is entrusted with carrying out all necessary procedures for the implementation and support of major investment projects and foreign investments. Its establishment was further regulated by Executive Decree No. 22/299 (Article 4 of Executive Decree No. 22/299). According to Article 4 of the aforementioned Executive Decree, major projects are defined as those whose value equals or exceeds two billion Algerian dinars. Foreign investments, on the other hand, are defined as those in which the capital is wholly or partially owned by foreign natural or legal persons, benefiting from the guarantee of the transfer of invested capital and the repatriation of returns. The ultimate purpose of this institutional innovation is therefore to attract and secure foreign investors.

As for the Decentralized One-Stop Shops, and in accordance with the provisions of Article 20 of Law No. 22/18 on Investment, they are tasked with assisting and supporting investors in completing all procedures related to investment across all provinces in Algeria. This mechanism aims to eliminate all forms of centralization in investment decision-making, thereby promoting local development, which constitutes a fundamental basis for the emergence and growth of small and medium-sized enterprises (SMEs).

The second type of procedural guarantees consists of judicial guarantees. Given that judicial guarantees are a critical concern for foreign investors, the legislator has established a High Committee for Appeals under the Presidency of the Republic, as well as arbitration as a mechanism for resolving investment disputes amicably.

It is noteworthy that the High Committee for Appeals functions as a high-level body composed of judges and economic and financial experts, placed under the authority of the Presidency of the Republic. It is responsible for adjudicating complaints and appeals submitted by investors, pursuant to Article 11 of the Investment Law and Presidential Decree No. 22/296 (Article 11 of Executive Decree No. 22/299), with the aim of protecting investors from injustice.

Regarding arbitration, which serves as a mechanism for resolving investment disputes, the general rule is that such disputes are adjudicated by the national judiciary, in accordance with the principle of state sovereignty over its territory. However, in exceptional cases, and where bilateral or multilateral agreements ratified by the Algerian state exist, arbitration may be employed to resolve disputes amicably, pursuant to Article 12 of the Investment Law.

SECTION III: THE ROLE OF THE ALGERIAN INVESTMENT PROMOTION AGENCY AS A NEWLY ESTABLISHED LEGAL MECHANISM FOR ATTRACTING FOREIGN INVESTMENT

The Algerian legislator has granted the Algerian Investment Promotion Agency (AIPA) extensive powers and responsibilities, recognizing it as an effective mechanism for promoting investment. In this regard, Article 4 of Law No. 22/18 sets out these powers, as the Agency intervenes in various areas related to investment. Among its assigned tasks are intervention in the field of information and facilitation of investors' projects (firstly), as well as tasks related to investment promotion, support, management of incentives, and investor follow-up (secondly). Each of these functions will be detailed as follows:



First: The Agency's Tasks in the Field of Information and Facilitating Investors' Projects

Initially, the tasks of the Algerian Investment Promotion Agency (AIPA) in the field of information consist of ensuring reception and information services for investors across all areas necessary for investment. This includes collecting the essential documents that allow investors to gain a comprehensive understanding of investment-related legislation and regulations, processing, producing, and disseminating them through all appropriate means.

In addition, the Agency is responsible for promoting investment in Algeria by developing promotional policies aimed at attracting foreign investment (Hammadi, 2019, p 94).

The Agency also develops information systems that allow investors to access all necessary data for preparing their projects and establishes databases concerning business opportunities, local resources, and available capacities, in coordination with the relevant administrative bodies and authorities. It also provides information regarding real estate designated for investment and communicates all pertinent details to the business community.

Regarding its role in facilitation, the Agency is responsible for establishing and managing the digital investor platform, evaluating the investment climate, and proposing measures to improve it. It provides all necessary information, particularly regarding investment opportunities in Algeria, available real estate, investment incentives and benefits, related procedures, and economic data systems to ensure comprehensive access to information.

Furthermore, the Agency handles the registration and processing of investment files, assists investors in completing procedures related to their projects, and provides the required

administrative services to streamline and accelerate interactions with both central and local authorities, thereby minimizing obstacles for investors. It also manages investment incentives, including those related to projects declared or registered prior to the enactment of the law, and monitors the progress and status of investment projects.

Second: The Agency's Tasks in Investment Promotion, Support, Management of Incentives, and Investor Follow-Up

Initially, the Agency's tasks in the field of investment promotion are effectively manifested through its active contribution to initiatives with both public and private bodies in Algeria and abroad, with the aim of promoting investment in Algeria. This includes preparing and proposing an investment promotion plan at both the national and local levels, designing the mobilization of the necessary capital to implement such plans, and ensuring the establishment of business relationships, facilitating communication among investors, and enhancing business and partnership opportunities. The Agency also establishes cooperative relations with similar foreign institutions.

Regarding its investor support functions, the Agency organizes guidance and investor care service, sets up investment services with recourse to external expertise when necessary, and accompanies investors in their interactions with other administrative bodies.

In the field of management of incentives, the Agency is responsible for issuing investment registration certificates and amending them when necessary, determining structured projects based on the standards and rules established in the applicable regulations, and concluding agreements provided for under Article 31 of Law No. 22/18 on Investment. Furthermore, the Agency verifies the eligibility of registered investments to



benefit from incentives, endorses lists of goods and services eligible for incentives provided by the investor, issues decisions to revoke incentives, drafts inspection reports upon the commencement of operations, and determines the duration of operational incentives granted to investors. In accordance with the applicable regulations, the Agency also manages the transfer and/or reassignment of goods and services that benefited from incentives and prepares certificates of VAT exemption.

As for its investor follow-up functions, the Agency's primary responsibilities consist of ensuring communication with the relevant administrative bodies and authorities regarding compliance with the commitments undertaken by investors, addressing investors' petitions and complaints, and developing a monitoring, listening, and follow-up service for the benefit of registered investments (Article 4 of Executive Decree No. 22/298). In addition, the Agency organizes a guidance and investor care service, accompanies investors in their interactions with other administrative bodies, provides information on available real estate suitable for their investment projects, and monitors the implementation of investments to increase capital through enhanced production (Chtoufi, 2017, p. 105). This contributes to the development of the product and the reduction of production costs, thereby supporting the improvement of the balance of payments and increasing state revenues (Bousta, 2017, p 134). Provided that the host country is qualified to attract investments (Ahmed Sharaf El-Din, 1993, p 311).

This also includes managing investment incentives, issuing investment registration certificates to enable investors to obtain benefits, amending them when necessary, determining structured projects, and concluding agreements provided for under the Investment Law in accordance with Article 31 of the Investment Law. Furthermore, the Agency verifies the eligibility of registered investments to benefit from incentives, endorses lists

of goods and services eligible for incentives provided by the investor, issues decisions to revoke incentives, drafts inspection reports upon the commencement of operations, and determines the duration of operational incentives granted to the investment. It also manages the transfer and/or reassignment of goods and services that benefited from incentives and prepares certificates of VAT exemption.

The Agency also has additional responsibilities in the field of monitoring, ensuring that investors comply with the commitments they have undertaken, and developing a monitoring, listening, and follow-up service for the benefit of registered investments. The Agency is also tasked with managing the portfolio of investments that were declared or registered prior to the enactment of Law No. 22/18, in accordance with the legislation and regulations under which these investments were originally registered (Ahmed Sharaf El-Din, 1993, p 320).

It is thus evident from the foregoing that the Algerian Investment Promotion Agency (AIPA) enjoys extensive powers and responsibilities under Investment Law No. 22/18. In addition to the tasks previously mentioned, the Agency manages the portfolio of investments that were declared or registered prior to the enactment of the new Investment Law by the former National Agency for Investment Development. The AIPA is also entrusted with coordinating, consulting, and taking initiative in all activities with public and private administrations and bodies in Algeria and abroad, with the aim of promoting and enhancing investment at both the national and local levels, and of marketing Algeria's attractiveness through contact with diplomatic representatives and Algerian consulates abroad.

The Agency promotes investment by engaging experts to enhance Algeria's image abroad. This promotion is carried out through meetings, seminars, national and international forums,



the creation of dedicated websites, and the use of mediation by influential international individuals and institutions to bolster Algeria's image and convince foreign investors to invest in a country that offers security, stability, and a favorable investment climate. The aim is to mobilize the necessary capital, establish business relationships, facilitate communication among investors, develop cooperative relations with similar foreign institutions, and further strengthen these relationships.

It is required that the attraction of foreign investment be linked to the public interest and that it benefits the national economy, which is in urgent need of strengthening investment and establishing its foundations in a practical and tangible manner. The measure of success is not the sheer volume of investments, whether domestic or foreign, but the actual benefits they generate and the added value they provide, ensuring that investment attraction does not come at the expense of the domestic market or create a burden on the public treasury. This contrasts with previous situations where large sums were wasted in the economy on empty container imports, perfumes, tire inflation, and the importation of goods purely for resale and invoice inflation, without producing goods and services locally.

It is therefore clear that the Algerian legislator, through the establishment of the Algerian Investment Promotion Agency (AIPA), aimed to promote investment in the name of Algeria, particularly foreign investments, and to support investors throughout all stages of the investment process. The Agency thus has a dual role: on one hand, it promotes investments on behalf of and in the name of Algeria; on the other, it accompanies investors throughout the investment lifecycle, preventing them from navigating administrative bureaucracy and corruption alone. This approach provides a strong impetus for investment during this transitional phase of the national economy, facilitating the shift from a rentier economy to a sustainable economy,

simplifying investment procedures, and assisting investors in accessing opportunities in Algeria with ease.

Conclusion:

In conclusion, this study demonstrates that the Algerian legislator consistently seeks to advance the field of investment, adopting a long-term perspective. Based on this investment-oriented approach, the study has reached several key findings, as outlined below:

1. Expansion of the investment domain and the scope of eligible investors, along with facilitating investment procedures as much as possible for investors.
2. Combating bureaucracy and ensuring transparency and integrity through the new principles introduced by this law, including the establishment of the digital investor platform.
3. A notable achievement of the legislator was elevating the principle of fair and equitable treatment from merely a guarantee to a fundamental principle of investment.
4. The new guarantees and incentive mechanisms play a significant role in both domestic and foreign investment. Key among them is the establishment of the Supreme Committee on Appeals under the Presidency, which instills confidence among investors and attracts foreign investment. Equally important is the Single Window for Major Projects and Foreign Investments, which plays a critical role in organizing the investment process strategically.
5. Registration with the Algerian Investment Promotion Agency (AIPA) is carried out through the immediate issuance of a certificate. Notably, the Agency, formerly under the Ministry of Industry, now operates under the



supervision of the Prime Minister, reflecting its strategic importance in the national investment framework.

Footnotes:

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