

The Legal Regime of the Auto-entrepreneur under Algerian Legislation

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Abstract: The Algerian legislator has introduced a new feature into the Algerian legal system, namely the special regime of the Auto-entrepreneur, through the enactment of Law No. 22-23, which regulates the general framework governing self-employment. This development comes in response to the ongoing economic transformations in the country. Accordingly, the legislator has attached great importance to this new mechanism by mobilizing the intellectual potential of young people to address unemployment, an issue that traditional employment methods have failed to resolve. This regime aims to facilitate young people's access to the labour market and foster their entrepreneurial spirit.

Keywords: Auto-entrepreneur, conditions and procedures, rights and obligations.

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Introduction:

By introducing Law No. 22-23, which sets out the general legal framework for the auto-entrepreneur, the Algerian legislator has adapted to the country's evolving economic landscape and shown a strong commitment to encouraging investment, acknowledging its vital role in channeling financial resources at both individual and collective levels.

As the topic remains relatively recent and is likely to generate various legal questions regarding the regulatory framework applicable to the auto-entrepreneur, this study aims to examine the core issues involved and propose possible legal responses. The goal is to add to the expanding legal literature focused on this developing field.

This subject raises a number of inquiries about the legal measures implemented by the Algerian legislator in embracing this new model. Thus, the central question this research seeks to answer is: What are the legal foundations that regulate the auto-entrepreneur within Algerian law?

In order to address this central research question, the following sub-questions have been formulated:

- What are the conditions required to obtain the status of an auto-entrepreneur?
- What are the procedures established for acquiring auto-entrepreneur status?
- What privileges has the Algerian legislator granted to individuals operating This research employs a dual methodology: a descriptive approach to collect data concerning the status of the auto-entrepreneur, and an analytical approach to interpret and assess the applicable legal texts, with the aim of reaching informed and substantiated conclusions.

In terms of structure, the research is organized into two primary parts. The first part addresses general aspects of the legal system related to the auto-entrepreneur, while the second part delves into the specific legal provisions that regulate the process of obtaining auto-entrepreneur status.

TITLE 1 : The Concept of the Auto-entrepreneur and Its Distinction from Related Legal Concepts

First Subtitle: Definition of the Auto-entrepreneur

The term auto-entrepreneur is a newly introduced concept in Algerian legislation, issued in 2023, which necessitates its definition. This is what we aim to address in the first axis, titled "The Concept of the Auto-entrepreneur." The second axis then discusses the characteristics that define the auto-entrepreneur and the key criteria that distinguish it from similar concepts.

First Section: Define what is meant by Auto-entrepreneur

Economic development has led to the emergence and evolution of the auto-entrepreneur term, and various definitions have been proposed. One definition from the jurisprudence states: "An individual who practices a small trade relying on physical labour, generating modest profits to secure a livelihood, rather than relying on capital investment, and is not subject to the obligations imposed on merchants."

Another perspective defines the auto-entrepreneur as "an independent provider of goods or services, meaning they do not belong to a specific user." The individual is recognized as a self-entrepreneur benefiting from social, tax, and legal relief. Natural persons are allowed to

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create their own individual activity, distinct from the company form, aiming to increase their per capita income.¹

From a legal standpoint, the Algerian legislator provides a definition of the auto-entrepreneur in Article 02 of Chapter I, titled “General Provisions of the Basic Law of the Auto-entrepreneur.” According to this article, an auto-entrepreneur is a natural person who independently carries out a profit-generating activity listed among those eligible under the Basic Law, provided their annual turnover does not exceed a threshold set by the relevant legislation.²

Article 02 makes it evident that the Algerian legislator deliberately excludes legal entities from the definition of an auto-entrepreneur, restricting the status exclusively to natural persons. Moreover, the definition indicates that only a predefined list of activities is eligible under this legal framework, thereby narrowing the scope of permissible fields and limiting individuals’ freedom to choose any type of professional activity.

The definition provided by the Algerian legislator sets forth several criteria for eligibility under this law, notably that the individual must be a natural person and the activity must comply with specific requirements, among other conditions. These criteria can be viewed as benefits or special features that set the auto-entrepreneur apart from conventional contractors. A key distinction lies in the fact that the annual turnover threshold is tied to the Finance Law, which may be adjusted annually in response to the country’s economic circumstances.

Second section: Specific criteria for the definition of auto-entrepreneur:

Through the legal definition of the auto-entrepreneur, we can identify the criteria adopted by the legislator for introducing this status. These criteria are as follows:

Based on this criterion, eligibility is limited to natural persons, explicitly excluding legal entities. This distinction is clearly outlined in Article II of the Basic Law of the Auto-entrepreneur, where the Algerian legislator specifies that companies and institutions, as legal persons, do not qualify for auto-entrepreneur status.

1- Personal Criterion:

This condition requires that the applicant be a natural person rather than a legal entity. This is clearly illustrated in Article II of the Basic Law of the Auto-entrepreneur, where the Algerian legislator excludes companies and institutions, classified as legal persons—from qualifying for auto-entrepreneur status.

2- The criterion is related to the nature of the activity:

The activity must not be categorized as a free profession, like those of a lawyer or notary, but should instead be a licensed activity requiring official authorization, such as operating a hotel. Additionally, the activity must be listed among those eligible for auto-entrepreneur status, as specified in Decree No. 23-197. This list covers seven sectors, including both liberal professions and regulated activities, in accordance with the stipulations of the aforementioned decree.³

¹ Bouazza, Nadhira. *On the Establishment of the Legal Status of the Auto-Entrepreneur under Algerian Law*, Al-Bahith Academic Journal for Legal Studies, Vol. 11, No. 1, Advanced Legal Studies Laboratory, pp. 564–565.

² Article 2 of Law No. 22-23 of 18 December 2022, establishing the Organic Law on the Auto-Entrepreneur, *Official Gazette* No. 37, published on 19 December 2022, p. 5.

³ Kaddour Boudiaf, Salah Lachonchi. *The Freedom of Auto-Entrepreneurship within the Investment Climate in Algeria*, Department of Legal and Political Research and Studies, Vol. VIII, Issue No. 1, Faculty of Law and Political Science, University of Algiers, 19 January 2024, p. 160.

3. Financial Criterion:

Article 51 of the Supplementary Finance Law of 2023 stipulates: This law is applicable to taxpayers whose annual turnover does not surpass five million Algerian dinars (5,000,000 DZD).

Second Axis: Characteristics of the Auto-entrepreneur System and Criteria for Distinguishing It from Similar Concepts

The auto-entrepreneur system possesses a set of characteristics that distinguish it from other forms of investment. However, these characteristics can sometimes be confused with similar concepts. Therefore, in this section, we will first address the advantages of the auto-entrepreneur system, followed by a discussion of the key factors that set it apart from other related concepts.

First Section: Advantages of the Auto-entrepreneur System

Psychological Characteristics of the Auto-entrepreneur:

- ✓ The auto-entrepreneur has a strong need for personal achievement, the ability to be creative and proactive, self-confidence, and a desire for independence. This individual is often driven by the desire to discover new challenges and is characterized by curiosity, intuition, and courage. The auto-entrepreneur is metaphorically inclined, constantly searching for opportunities and able to tolerate unconventional circumstances. They are regularly confronted with new experiences and must demonstrate responsibility, enthusiasm, and persistence in achieving their goals.⁴
- ✓ The auto-entrepreneur also bears the risks resulting from market fluctuations, particularly financial or physical risks, as well as personal risks such as family and psychological challenges. Additionally, the auto-entrepreneur manages these risks by effectively sourcing materials, innovating in the production of services and products, and utilizing new production methods. He sets clear goals and allocates resources efficiently to achieve them.

2. Administrative Characteristics:

- ✓ **Intellectual Skills:** possessing a set of intellectual and cognitive abilities, along with a long-term vision necessary to achieve their future objectives.
- ✓ **Analytical Skills:** focussing on analyzing the relationships between various factors and variables that influence both current and future performance. This includes studying and analyzing the strengths and weaknesses within the internal environment of the business.
- ✓ **Technical Skills:** These skills are related to performance and the ability to execute tasks effectively, including product design, operation, and maintenance. It also encompasses knowledge on how to install components and manufacture certain equipment.

Second Section: Comparing the Auto-entrepreneur System with Similar Concepts:

The term auto-entrepreneur differs from many similar concepts, making it essential to distinguish between the auto-entrepreneur and other related terms, as follows:

1- Auto-entrepreneur and Company:

In a company, a partner intends to participate in a joint liability activity, which involves the creation of the company or the management of the partnership, with each partner cooperating in a risky business venture. In contrast, an auto-entrepreneur does not share this intention. The auto-entrepreneur does not seek to bear the risks of a partnership or contribute

⁴ Dabah Nadia. *A Study on the Reality of Entrepreneurship in Algeria and Its Challenges*, Master's thesis submitted in partial fulfillment of the requirements for the degree of Master, Faculty of Economic Sciences, Commercial Sciences, and Management Sciences, University of Algiers 3, Algeria, Academic Year 2011–2012, p. 39.

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to the company's profits and losses. Instead, the auto-entrepreneur performs specific work and receives compensation for it, with no intention of forming a company or sharing in its risks.⁵

2- Auto-entrepreneur and Contracting Contract:

According to Article 646 of the Civil Code, a contract is defined as an agreement in which one party commits to produce something or carry out work in exchange for compensation agreed upon by the other party.⁶

The contractor's contract is based on a material place of work, and the contractor operates in their own name. Therefore, any actions concluded by the contractor in the course of performing their work affect the contractor personally, not the employer.⁷

Furthermore, Article 549 of the Civil Code defines a contracting contract as an agreement between the contractor and the employer, where the contractor agrees to complete specific work for the employer in return for agreed-upon compensation. The contracting contract pertains to a project that does not exist at the time of the agreement; however, the contractor is responsible for creating it in the future once the contract is in effect.⁸

To qualify as an auto-entrepreneur, an individual must be a natural person rather than a legal entity. The auto-entrepreneur must engage in their work independently, without any collaborators, and for their own benefit. This work involves a profit-generating activity, which is included in a list of eligible activities associated with self-contracting. However, the Basic Law of Auto-entrepreneurship does not explicitly define these activities but instead refers to a separate regulation that outlines the list of eligible activities.

3. Auto-entrepreneur and Commercial Contracting:

Unlike the French legislator, the Algerian legislator does not offer a legal definition of a company. Instead, it defines commercial activities based on their content, as outlined in Article II of the Algerian Commercial Law.

Commercial activities are those that a person typically engages in professionally, with the intention of making a profit. The term "professionally" here implies the existence of prior organization, meaning the availability of necessary material and human resources for initiating the activity, as well as the consistent and permanent practice of the activity.⁹

In contrast, the auto-entrepreneur status provides a legal framework for individuals offering services or engaging in industrial or commercial activities by establishing their own business. This system offers easy establishment and closure, as well as exemption from registration in the commercial register. It also provides protection for the private property of the auto-entrepreneur from seizure in the event of bankruptcy. One of the significant advantages of auto-entrepreneurship is that it opens the door for individuals, including youth, students, graduates (both school and university), and the unemployed, to legally start and manage their own business.

4. Auto-entrepreneur and Microenterprise:

Article 5 of Law No. 17-02 defines small and medium-sized enterprises (SMEs), irrespective of their legal form, as businesses involved in the production of goods or services.¹⁰ These enterprises employ between 1 and 250 people, have an annual turnover not exceeding 4 billion Algerian dinars, and meet the requirement of independence.

⁵ Abdul Razzaq Ahmed Al-Sanhouri. *Al-Waseet fi Sharh al-Qanun al-Madani al-Jadeed (The Mediator in Explaining the New Civil Code): Contracts Pertaining to Work*, Volume I, Part Seven, Third Edition, Al-Halabi Legal Publications, Lebanon, 2009, pp. 30–31.

⁶ Article 646 of *Ordinance No. 75-58*, as amended and supplemented, forming part of the Algerian Civil Code.

⁷ Fatiha Qurra, *Legal Provisions Governing the Subcontracting Contract*. 1st Edition, Dar Wael for Publishing and Distribution, Jordan, 2009, p.41-42.

⁸ Article 549 of the *Algerian Civil Code*.

⁹ Suzan Ali Hassan, *Al-Wajeez in Commercial Law*. Al-Maaref Foundation, Alexandria, Egypt, 2004, p.39.

¹⁰ Law No. 17-02 on the Directive Law for the Development of Small and Medium Enterprises, published in the Official Gazette of the People's Democratic Republic of Algeria, No. 2, issued on January 11, 2017.

Articles 8, 9, and 10 of the same law provide detailed definitions:

A Very Small Enterprise is defined as an organization with a workforce of one to nine employees, generating an annual turnover of less than 40 million Algerian dinars, or where the total annual revenue does not exceed 20 million Algerian dinars.

The Algerian legislative framework for the development of SMEs focuses on the fundamental criteria of the enterprise: the number of employees, turnover, total annual proceeds, and independence of the institution.

The difference between auto-entrepreneurship and microenterprises lies in the employment requirement. A microenterprise must employ a number of workers, even if it's only one, whereas the auto-entrepreneur operates individually and cannot be considered an employee, as they are self-employed. Furthermore, the auto-entrepreneur system differs from microenterprises in terms of annual turnover. The maximum turnover for an auto-entrepreneur is set at 5 million Algerian dinars, whereas a microenterprise can exceed this threshold but must not surpass 40 million Algerian dinars. It is also noteworthy that the Algerian legislator does not consider annual proceeds as a criterion for auto-entrepreneur status. Thus, an enterprise, regardless of its size, even if very small, is considered a much larger project than an auto-entrepreneur operation.

According to Article 12 of Executive Decree No. 254-20, individuals seeking recognition as an emerging enterprise are required to submit a dossier that includes a copy of their commercial registration. This requirement suggests that the Algerian legislator considers emerging enterprises to be commercial entities, irrespective of the nature of their activities.¹¹

In contrast, auto-entrepreneurship is not considered a commercial company, and the Algerian legislator has exempted auto-entrepreneurs from registration in the National Center for the Commercial Register. This exemption is one of the privileges granted to auto-entrepreneurs, aiming to encourage young entrepreneurs to declare their activities. The two primary conditions for an emerging enterprise, as identified by most economists, are innovation and significant growth potential. This distinguishes emerging enterprises from auto-entrepreneurs, as there is no requirement for an auto-entrepreneur to introduce an innovative project, nor is there any expectation that the project will experience substantial growth in the future.

5. Auto-entrepreneur and Start-up:

A start-up is informally described in English as a newly launched small-scale project. The word start-up combines start, implying rapid development, and up, symbolizing initiation or takeoff. Its usage gained popularity after World War II, aligning with the rise of venture capital firms. In contemporary terms, the French Larousse dictionary defines a start-up as a young and innovative company operating in advanced technology sectors.¹²

In Article 11 of Executive Decree No. 20-254,¹³ issued on 15 September 2020, the Algerian legislator provides a definition of a start-up. This decree also establishes a national committee tasked with awarding the 'start-up' label and recognizing innovator project status, as well as

¹¹ Khaled Maammar, Charef Ben Yahia, *Emerging Institutions between Economic Existence and the Problem of the Legal Framework in Domestic Legislation*, Algerian Journal of Law and Political Science, Vol. 7, No. 1, University of Tissemsilt, 2022, pp. 766–767.

¹² Bouchaïr, Cherifa, *The Role of Business Incubators in Supporting and Developing Startups: A Case Study of Algeria*, *Journal of Economic Omens*, Vol. 4, No. 2, University of August 20, 1955, Skikda, 2018, p. 420.

¹³ Executive Decree No. 254-20, dated September 15, 2020, establishing a National Committee for granting the status of a startup enterprise, an innovative project, and a business incubator, defining its tasks and operational framework, *Official Journal of the People's Democratic Republic of Algeria*, No. 55, issued on September 21, 2020, p. 11.

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detailing its responsibilities and operational framework. Under this decree, a start-up is defined as any organization governed by Algerian law that fulfills specific criteria.

- ✓ The institution's age must not exceed 8 years.
- ✓ The business model of the organization must be based on goods, services, business models, or any innovative idea.
- ✓ The annual turnover must not exceed the amount determined by the National Committee.
- ✓ The capital of the institution must be at least 50% owned by natural persons or approved investment funds, or by other institutions with start-up status.
- ✓ The number of workers must not exceed 250 employees”.

TITLE 2 : How to Acquire Self-Entrepreneurial Status and Its Implications:

The auto-entrepreneur can carry out his work once he meets the conditions set out in the Basic Law, specifically in Article 02. Upon fulfilling these conditions, the procedures for obtaining this status can be initiated, along with the processes for its completion.

Once the auto-entrepreneur satisfies the necessary conditions and completes the procedures outlined in the Basic Law, including obtaining the auto-entrepreneur card and its associated privileges, this results in legal effects, encompassing both rights and obligations.

First Axis: Conditions for Granting Self-Entrepreneur Status and Procedures to Be Followed

In Article 03 of the Basic Law on Auto-entrepreneurs, the Algerian legislator specifies several conditions that must be met to obtain an auto-entrepreneur license. These conditions include:

First Section: Conditions for Granting Self-Entrepreneur Status:

The conditions for granting this status include meeting certain eligibility requirements, such as holding Algerian nationality and ensuring that the annual turnover aligns with the stipulated legal thresholds. Additionally, the auto-entrepreneur's activities must align with the list of eligible activities specified in Executive Decree No. 23-197.

1- Eligibility:

Article 03 of the Organic Law of Self-Entrepreneurship (Law No. 22-23) states in its first paragraph: Puberty Legal age for employment...

The Algerian legislator has established 19 years as the standard age of legal majority, aligning with Article 40 of the Civil Code. This article states that any individual who has reached this age, possesses full mental capacity, and is not legally incapacitated is considered fully capable of exercising civil rights. It also clarifies that rules concerning incapacity and restricted capacity, along with their legal implications, are applicable in such cases.

Under the Algerian Commercial Code, its articles do not explicitly stipulate the age of special majority but rather leave it to the general public rules. These rules prohibit any adult, who is mentally competent, from engaging in certain professional activities or trades that are considered to be of public interest. Examples include professions such as staff, lawyers, teachers, doctors, etc. The law imposes penalties, as specified in the Algerian Penal Code, for anyone who violates this provision.¹⁴

¹⁴ Ben Azzouz, Fatiha, "The Auto-Entrepreneur Regime and Its Privileges in Light of the Provisions of Law No. 22-23," *Journal of Legal and Social Sciences*, University of Ziane Achour, Djelfa, Algeria, Vol. VIII, No. III, September 1, 2023, pp. 1075–1076.

However, in Article 03 of the Basic Law of the Auto-entrepreneur, the Algerian legislator uses the term work. This necessitates a reference to the provisions of the Labour Law, particularly regarding the age of minority.

Article 15 of the Labour Code states in paragraph 7: A juvenile is any natural person who has attained the age of sixteen years but has not reached eighteen years.¹⁵ In light of this provision, it is evident that the age of a minor differs from the age specified for juveniles under the Civil Code. Based on these legal texts and the legislator's reference to working age, it is necessary to apply the provisions of the Labour Law, which defines the age of a minor as 16 and the age of majority as 18, for the purpose of starting employment.

2- Possibility for a Foreign Natural Person (of Algerian Nationality) to Benefit:

The Algerian legislator stipulates in Article 03, paragraph (3)¹⁶ of the Basic Law that: The applicant must be of Algerian nationality or a resident foreigner. From this provision, it can be inferred that the legislator does not distinguish between individuals with original or acquired Algerian nationality. However, it explicitly requires that the individual reside within the national territory, excluding those living abroad. This condition may be intended to facilitate regulatory oversight or to prioritize the empowerment of young Algerians in contributing to national development.

While the law does allow foreign nationals to obtain self-entrepreneur status, it imposes a residency requirement, which constitutes a restriction on the freedom to invest and establish businesses. This raises the question of whether it might be more advantageous to extend this eligibility to Algerians residing abroad, thereby enabling the country to benefit from the skills, expertise, and entrepreneurial experiences acquired in foreign, particularly Western, countries.

3. Regulated Activities Eligible for Auto-Entrepreneur Status:

- ✓ The following regulated activities are eligible to be carried out under the auto-entrepreneur framework:
 - ❖ Consulting, expertise, and training services.
 - ❖ Digital services and related activities.
 - ❖ Home-based services.
 - ❖ Personal services directed toward individuals.
 - ❖ Recreational and entertainment services.
 - ❖ Business support services.
 - ❖ Cultural, communication, and audiovisual services.¹⁷

4. Annual Turnover Threshold for Auto-Entrepreneur Activities:

Article 51 of Finance Law No. 22-24 stipulates that individuals with auto-entrepreneur status may benefit from the advantages outlined in the Organic Law, as long as their annual revenue does not surpass five (5) million Algerian dinars. The same provision also establishes a fixed tax rate of 5% on turnover, to be paid annually to the tax administration.

¹⁵ Article 15 of Law No. 11-90 of April 21, 1990, on Labour Relations, Official Gazette of the People's Democratic Republic of Algeria, No. 17, issued on April 25, 1990, p. 4.

¹⁶ Article 3 of Law No. 22-23 of December 18, 2022, establishing the Organic Law governing the status of the Auto-Entrepreneur.

¹⁷ Article 4 of Executive Decree No. 23-197 of May 25, 2023, establishing the list of activities eligible under the Organic Law on the Auto-Entrepreneur and setting forth the procedures for registration in the National Register of Auto-Entrepreneurs, *Official Gazette of the People's Democratic Republic of Algeria*, No. 37, issued on May 4, 2023, p. 10.

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Additionally, Article 13 of Organic Law No. 22-23 states that if an auto-entrepreneur's annual turnover surpasses the legal threshold for three consecutive years, they must register in the Commercial Register to continue their business activities.¹⁸

The Basic Law on the Auto-Entrepreneur has identified the categories eligible to benefit from the auto-entrepreneur status, listed as follows:

1- Young graduates, qualified individuals, or project holders:

The law primarily targets individuals holding academic degrees, including Bachelor's, Master's, and PHD degrees, as well as holders of higher technical diplomas in various fields, whether literary, medical, theoretical, electronic, or applied sciences. The aim is to enable them to create entrepreneurial projects and capitalize on their academic and practical training, while also addressing the issue of unemployment among graduates.

2- Auto-entrepreneurs registered in the National Register:

This category includes individuals who have been officially registered in the National Auto-Entrepreneur Register after fulfilling the legal requirements set by the National Agency for Auto-Entrepreneurship.

3- Individual entrepreneurs who are self-employed but not officially recognized as auto-entrepreneurs:.

An individual or sole entrepreneur refers to a person who independently decides to undertake a professional activity by allocating a separate financial accounting from their personal liability, without establishing a legal entity (i.e., without creating a legal person). These individuals carry out their activities on a personal basis but do not hold the official auto-entrepreneur status.¹⁹

4- Very Small Enterprises (VSEs):

This category refers to any business entity employing no more than ten (10) individuals and achieving an annual net turnover, after tax, that does not exceed five (5) million Algerian dinars.

5- Very Small Exporting Enterprises:

These are companies engaged in the production of goods or services intended for export to international markets. This category may include, but is not limited to: manufacturing units, agricultural operations, laboratories, consultancy firms, digital service providers, creative studios, research institutions, and cultural entities.

6- Startups:

A startup can be described as a temporary organizational structure aimed at testing and refining a business model, with the intention of validating, adjusting, or expanding it to reach broader, often international, markets. Put simply, it involves a team of innovators working together to evaluate the potential of a business concept, with the ultimate aim of building a sustainable enterprise.

7- Cooperatives:

¹⁸ Article 13 of Law No. 22-23 establishing the Organic Law governing the status of the Auto-Entrepreneur.

¹⁹ Ould Rabeh Iqlouli Safia, "The Limited Liability Auto-Entrepreneur Regime: A Model Framework for the Legal Protection of Individual Auto-Entrepreneurs," *Algerian Journal of Legal, Economic and Political Sciences* (unprinted), Faculty of Law and Political Science, University of Tizi Ouzou, Algeria, p. 303.

A cooperative is a collective formed by natural persons, legal persons, or a combination of both, who voluntarily unite to establish a business that serves to meet their shared economic, social, or cultural needs. These entities are governed by core cooperative principles and values, including voluntary and open membership accessible to all.

Second Section: Procedures for Acquiring and Terminating Auto-Entrepreneur Status

The Algerian legislator has outlined the procedures for benefiting from the legal framework governing the auto-entrepreneur status, which begins with the registration process.

Under the framework of Law No. 23-22, particularly Article 04, any individual who satisfies the conditions outlined in Article 03 is eligible to obtain auto-entrepreneur status, provided they complete the following steps:

1. Submission of the Registration Application:

The individual must submit an application for registration in the National Register of Auto-Entrepreneurs, which is maintained by a designated public institution, the NBK. This institution is not only responsible for managing the register but is also entrusted with monitoring and supporting the activities of auto-entrepreneurs.

Until the regulatory texts outlining the registration process are issued, it is expected that registration will be carried out by completing a form available on the national digital platform created for this purpose, as outlined in Article 11 of Law No. 22-23.

Additionally, the auto-entrepreneur card will be issued by the authorized institution. This card acts as an official permit, allowing the holder to access the benefits offered by the auto-entrepreneur system. It also ensures the legal recognition of the entity and its activities, as outlined by the relevant regulations.

2. Issuance of the Auto-Entrepreneur Card

Once the auto-entrepreneur has completed the registration process and the submitted information has been duly verified, they are issued the auto-entrepreneur card. This card serves as legal proof of the individual's status as an economic actor and reflects their identity. Its format and content shall be determined by subsequent regulatory provisions.

According to Article 6 of Law No. 22-23, upon issuance of the card, the auto-entrepreneur is assigned a unique identification number in the National Register of Auto-Entrepreneurs, which corresponds to their registered activity. However, this registration does not exempt the auto-entrepreneur from compliance with applicable laws and regulatory obligations, nor does it grant blanket authorization for unrestricted activity.²⁰

In order to simplify and expedite the process of launching economic activities, the legislator has authorized the use of the auto-entrepreneur's residence or shared co-working spaces as the official business address. It is expressly stipulated, however, that personal or family residences serving as business premises may not be subject to seizure in the context of the auto-entrepreneur's professional obligations.

Building on the previous section about registration procedures, this section will now focus on the steps for removal from the National Register of Auto-Entrepreneurs, as well as the re-registration process, in accordance with the provisions outlined in Chapter 4 of Law No. 23-22, particularly Articles 14 to 16.

An auto-entrepreneur may be removed from the National Register of Auto-Entrepreneurs by the relevant authority overseeing the auto-entrepreneurship system, as outlined in Article 14 of Law No. 23-22, which serves as the Basic Law for Auto-Entrepreneurs.

²⁰ Article 08 of Law No. 22-23 establishing the Organic Law governing the status of the Auto-Entrepreneur.

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The grounds for removal are not exhaustive, as suggested by the phrase 'in particular' in the first paragraph of this article.

The cases in which an auto-entrepreneur may be removed from the National Register can be summarized as follows:

- ❖ At the request of the auto-entrepreneur, submitted to the National Auto-Entrepreneur Agency or via the digital platform.
- ❖ Failure to declare turnover or declaration of zero turnover for a period of three consecutive years after registration in the National Register.
- ❖ Exceeding the annual turnover limit set by the applicable legislation and regulations for three consecutive years.
- ❖ In the event of any legal or judicial impediment preventing the individual from continuing their business activity.
- ❖ In the case of the death of the auto-entrepreneur.

After the delisting process is completed, the National Agency for Auto-Entrepreneurs will notify the decision through all available means within fifteen (15) days from the decision date. The notification will be sent to the auto-entrepreneur, the relevant tax authorities, the Social Security Agency, the professional banking and/or postal institution, and will include the removal from the National Register of Auto-Entrepreneurs. This action will lead to the cancellation of the auto-entrepreneur's card, effectively revoking their status. Additionally, the cancellation will result in the forfeiture of the benefits previously granted under the auto-entrepreneurship framework.

However, despite the delisting, the auto-entrepreneur remains obligated to pay any outstanding tax and quasi-tax debts, if applicable.²¹

The auto-entrepreneur has thirty (30) days to file an appeal if they disagree with the delisting decision. This appeal must be submitted to the competent services of the Minister in charge of startups. The Minister has thirty (30) days to respond to the appeal filed by the auto-entrepreneur.²²

According to Article 16 of Law No. 22-23, once the reasons for delisting are resolved and any outstanding tax or quasi-tax debts, if applicable, are paid, the auto-entrepreneur can request to be re-registered in the National Register of Auto-Entrepreneurs. The re-registration request can be made under the following conditions:

- ✓ The request for re-registration can be submitted by the auto-entrepreneur who was delisted, either through the enterprise or via the digital platform.
- ✓ If the auto-entrepreneur has declared turnover or has declared zero turnover during the three years following the initial registration in the National Register of Auto-Entrepreneurs.
- ✓ If the annual turnover, as defined by the relevant laws and regulations, has not exceeded the threshold of 5 million Algerian dinars for three consecutive years, as set in the Finance Law for 2023.
- ✓ If the legal or judicial impediment that previously prevented the auto-entrepreneur from practicing their activity has been removed.
- ✓

Second Axis: Effects of Self-Entrepreneurial Status

Once the auto-entrepreneur meets the necessary conditions, completes the procedures outlined in the Basic Law of the Auto-Entrepreneur, and obtains the auto-entrepreneur card

²¹ Article 16 of Law No. 23-22 establishing the Organic Law governing the status of the Auto-Entrepreneur.

²² Article 24 of Executive Decree No. 23-197 of May 25, 2023, establishing the list of activities eligible under the Organic Law on the Auto-Entrepreneur and setting forth the procedures for registration in the National Register of Auto-Entrepreneurs.

along with its associated privileges, it leads to various effects, including both rights and obligations.

First Section: Rights and Obligations of the Auto-Entrepreneur

1- Rights of the Auto-Entrepreneur:

To address the absence of specific rights provided in the Basic Law for Auto-Entrepreneurs, it became necessary to rely on the general rights outlined in the contractor's contract as stipulated in the Algerian Civil Code. Therefore, we will present these rights in some detail.

Article 559 of Ordinance No. 75-58 states: The fee shall be paid upon delivery of the work unless custom or agreement otherwise requires, which also applies to the place of delivery. Article 282 of the same ordinance stipulates: If the object of the obligation is a specific thing, it must be delivered at the place where it was located at the time the obligation arises unless there is an agreement or provision to the contrary.

Article 564 states: The contractor may entrust the execution of the work, in whole or in part, to a subcontractor, if he is not prevented from doing so by a condition in the contract or the nature of the work does not require reliance on his personal competence, but in this case, he remains responsible for the subcontractor towards the employer. In this article, we observe that the subcontractor may be delegated all or part of the original contractor's work, but the original contractor remains responsible if the subcontractor makes any mistakes. Thus, the original contractor holds contractual responsibility towards the client.

As for the rights of the auto-entrepreneur under the Basic Law, Article 5 of the Basic Law for Auto-Entrepreneurs states that once the auto-entrepreneur is registered, their status is validated before customers and various administrative authorities.

Article 5 of the same law also stipulates in its third paragraph: "... The Foundation shall be responsible, in particular, for maintaining the aforementioned register and accompanying and monitoring the activities of the auto-entrepreneur..."²³ This article indicates that the National Agency for Auto-Entrepreneurs is responsible for managing and monitoring the National Register of Auto-Entrepreneurs, a key function of the agency.

Moving to another right granted to the auto-entrepreneur, which is receiving the auto-entrepreneur card from the Corporation. Article 6 of the same law states: The Corporation shall issue the auto-entrepreneur card bearing a single national registration number that identifies the auto-entrepreneur. The format of the auto-entrepreneur card shall be determined by regulation. This card carries a unique registration number for the auto-entrepreneur. In the event of loss, the relevant authorities must be notified with this number. The card also allows the auto-entrepreneur to obtain an electronic extract from the national register for personal use.

After receiving the auto-entrepreneur card, the individual is entitled to establish their activity at their place of residence or in co-working spaces, as outlined in Article 7 of the same law. Through this provision, the Algerian legislator has granted the auto-entrepreneur the right to carry out their activity with full security, particularly concerning rent, and relieving them of the burdens of mobility. Additionally, Article 8 of the same law provides that: ... personal and family residence cannot be seized due to debts or damages resulting from the auto-entrepreneur's activity.

2- Obligations of the auto-entrepreneur:

The primary obligation of the auto-entrepreneur is to complete the agreed-upon work within the timeframe established by the parties. In the absence of such an agreement, the work must be completed within a reasonable period, taking into account the applicable customs and

²³ Article 5 of Law N 22-23 establishing the Organic Law governing the status of the Auto-Entrepreneur.

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practices in the relevant field. The auto-entrepreneur must also adhere to the agreed or customary method of executing the work and must exercise the necessary diligence, especially in cases where the nature of the task requires care. In some cases, the obligation may extend to achieving a specific result.²⁴

Upon completion of the work, the auto-entrepreneur is required to deliver it to the client. Delivery is effected by placing the work at the client's disposal in a manner that allows the client to benefit from it without any hindrance. The method of delivery may vary depending on the type of work and should occur immediately upon completion, unless otherwise agreed, and at the agreed place or in accordance with customary practice. Given the nature of modern services, particularly those involving digital technologies, delivery may be carried out electronically.

In the absence of an agreement on another delivery date, delivery must occur at the agreed location or in accordance with prevailing custom. Delivery is not necessarily carried out in the auto-entrepreneur's place of residence or country of origin. It is important to note that, due to the nature of modern technologies, the delivery process may be conducted electronically. In accordance with Law No. 22-23, the auto-entrepreneur is required to:

- ❖ Declare their presence to the regionally competent tax authorities in order to obtain a tax identification number, within thirty (30) days from the date of obtaining the auto-entrepreneur card. The auto-entrepreneur must also declare to the relevant Social Security Fund.²⁵
- ❖ Submit a registration request to the National Register of Auto-Entrepreneurs, either through the competent Corporation or via the dedicated digital platform established for this purpose. The Corporation refers to the Auto-Entrepreneur Establishment responsible for issuing the auto-entrepreneur card.
- ❖ Annually submit an administrative certificate to the National Agency for Auto-Entrepreneurs, issued by the Tax Authority, showing the annual turnover achieved. The certificate must comply with the format set by the General Directorate of Taxes.
- ❖ Declare their turnover to the tax authorities and pay any taxes due accordingly.
- ❖ Comply with all applicable legislative and regulatory provisions governing the exercise of their activity.

In the event that the annual turnover achieved by the auto-entrepreneur exceeds the legally stipulated threshold for a period of three consecutive years, the auto-entrepreneur is required to register with the National Center of the Commercial Register (CNRC) in order to continue exercising their activity. Upon registration, the auto-entrepreneur acquires the legal status of a merchant. Failure to comply with this requirement results in removal from the National Register of Auto-Entrepreneurs.

The requirement to obtain a tax identification number plays a crucial role. It helps identify the auto-entrepreneur's tax status and ensures that the activity is properly registered within the national fiscal system. It also allows consumers to determine whether price increases in goods or services are attributable to the application of value-added tax (VAT) or if they are arbitrary. This number is usually included on invoices for goods and services. However, it is important to note that Law No. 22-23 does not specifically mandate the issuance of invoices for transactions conducted by auto-entrepreneurs. Despite this, invoicing remains a key factor in

²⁴ Abdul Razzaq Ahmed Al-Sanhouri, *The Mediator in Explaining the New Civil Law – Contracts of Work*, Part Seven of Volume I, Dar Ihya' al-Turath al-Arabi, Beirut, 1963, pp. 89–90.

²⁵ Articles 10 and 11 of Law No. 22-23 establishing the Organic Law governing the status of the Auto-Entrepreneur.

distinguishing between formal and informal economic activities and is an essential tool for enhancing transparency in business dealings.²⁶

Article 10 of Law No. 22-23, which serves as the Organic Law regulating the auto-entrepreneur status, imposes another key obligation. It mandates that the auto-entrepreneur register their activity with the Social Security Authority for non-salaried workers, in accordance with the relevant regulations. While this requirement might seem more like a benefit than a strict obligation, it is crucial, as it provides the auto-entrepreneur with access to healthcare services and social insurance coverage related to the nature of their work.

Finally, adherence to legislative and regulatory requirements is essential. The Organic Law on the Auto-Entrepreneur does not function as an independent legal framework; instead, anyone operating under this status must comply with all relevant laws and regulations. This includes following competition laws, consumer protection regulations, health and safety standards, environmental laws, and any other legal provisions related to their specific area of activity.

Second Section: Privileges Granted to the Auto-Entrepreneur:

Under the provisions of Law No. 22-23, the Algerian legislator has conferred a series of privileges upon individuals holding auto-entrepreneur status, with the aim of motivating and encouraging them to develop their projects and fully benefit from the outcomes of their entrepreneurial efforts.

1. Simplified Accounting System for the Auto-Entrepreneur:

The Algerian legislator, through the provisions of the Organic Law on the Auto-Entrepreneur, has acknowledged the right of the auto-entrepreneur to maintain a simplified accounting system. This is to be kept in a register that is duly numbered and certified by the regionally competent administrative departments. Within this register, all revenues and expenses related to the activity are to be recorded, thus ensuring basic financial transparency while reducing administrative burdens.²⁷

2- Exemption from Registration in the Commercial Register:

According to paragraph 2 of Article 9 of the Basic Law for Auto-Entrepreneurs, self-employed individuals are exempt from the requirement to register in the commercial register. Unlike traders and investors, who must complete a formal procedure to validate their rights and secure a license for their activities, the auto-entrepreneur is not obligated to register. Instead, the auto-entrepreneur card, along with the tax identification number, serves as a substitute for this registration. This system streamlines administrative and non-administrative processes, requiring only the submission of the auto-entrepreneur card to complete transactions.

This exemption has several important effects: it alleviates the burden of mobility, reduces the complexity of administrative procedures, and saves significant time compared to the requirements for merchants. Moreover, it ensures that the self-contractor's place of activity is not subject to debts in the event of seizures, unlike a merchant, whose personal property, including his residence, can be seized in case of non-compliance with obligations.

²⁶ Ben Amour, Aicha, *Billing and Its Role in Consolidating the Integrity and Transparency of Commercial Transactions under Algerian Law*, *Algerian Journal of Law and Political Science*, Vol. 6, No. 2, Faculty of Law, University of Tissemsilt, Algeria, 2021, p. 44.

²⁷ Article 9 of Law 23-22 The auto-entrepreneur shall benefit from the following privileges: “maintaining a simplified accounting system on a numbered register marked by the regionally competent departments, where all revenues and expenses related to the activity are recorded, exemption from the obligation to register in the commercial register, preferential tax system, opening a commercial bank account, facilitating the financial management of their business operations ».

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3- Benefit from a Detailed Tax System:

Article 9 of the Organic Law of the Auto-Entrepreneur (Law No. 22-23), Paragraph 9, establishes that the auto-entrepreneur is entitled to a "preferential tax regime."

4- Opening a Commercial Bank Account:

Opening a commercial bank account typically requires commercial registration for merchants. This account is tailored to meet the needs of businesses, allowing for the safe execution of trade-related operations. To further facilitate this process, the legislator has mandated that banks accept the auto-entrepreneur card as a requirement to open such an account, making it an important tool for financial transactions.

Although banks typically require a copy of the commercial registration or a credit reference to open a commercial bank account, the auto-entrepreneur is exempt from this requirement. As stated in the final paragraph of Article 9 of Law 22-23, the legislator permits the auto-entrepreneur to open a bank account even without being registered in the commercial register. This provision allows the auto-entrepreneur to access the benefits of having a bank account, including making withdrawals, processing payments, and conducting transactions via bank networks or a bank card.

Furthermore, allowing the auto-entrepreneur to open a bank account enables them to receive proceeds from exporting digital services in foreign currency, an option not generally available to the public.

5- The Possibility of Practicing the Activity from Home:

It is well-known that one of the obstacles faced by individuals wishing to engage in commercial activities is the requirement to provide a title deed, lease agreement, allocation, or concession when registering with the Commercial Registry Authority. However, the auto-entrepreneur system removes these requirements, making it easier for individuals, including homemakers who may struggle to work outside the home, to participate. As stated in Article 7 of Law No. 22-23: The auto-entrepreneur may establish their activity at their place of residence or in shared workspaces. Additionally, to further assist those who choose to operate from home, the legislator has introduced an exemption that protects the individual's personal or family residence from seizure in the event of non-payment of debts related to the activity.

Conclusion:

By analyzing the various legal provisions of the self-contractor legal system in Algerian legislation, a new mechanism introduced by the Algerian legislator with the aim of stimulating investment and aligning with the practices of developed countries, several conclusions can be drawn, which can be summarized as follows:

- ✓ The Algerian legislator has narrowed the scope of privileges and conditions for obtaining the status of auto-entrepreneur, particularly with regard to foreign residents. While the Algerian diaspora abroad was granted the right to acquire this status, it could have been beneficial to tap into their accumulated experiences.
- ✓ The system is not fully compatible with certain professional activities, especially given the list of restricted activities outlined in the relevant decree, which constitutes a limitation on the contractor's freedom.
- ✓ The Algerian legislator has provided significant privileges to the auto-entrepreneur status when compared to that of a trader or a national or foreign investor, especially in terms of the ability to operate from their place of residence and the protection of their assets from seizure in the event of a breach of obligations.

- ✓ While the Algerian legislature offers young people and graduates a significant opportunity to obtain this status and demonstrate their capabilities, the financial burden of paying the contribution fee and the limited time period provided for them remains a challenge, particularly for young people with no income.

Based on the findings, several proposals can be made, including the following:

- ✓ Increasing the transaction limit to align with the scope of the auto-entrepreneur's field of activity.
- ✓ Granting additional privileges, particularly those related to the groups benefiting from this system.
- ✓ Encouraging the Algerian legislator to accelerate the release of the regulatory texts associated with the Organic Law on Auto-Entrepreneurs, in order to enhance its effectiveness, provide clearer guidance, and support practical enforcement.
- ✓ Promoting the spirit of entrepreneurship among eligible individuals through information dissemination, communication efforts, and awareness campaigns about the auto-entrepreneur system.