

The start ups concept and the financing mechanisms in Algerian legislation

Medjahdi khadidja*¹

• ¹ Senior lecturer A, University Blida 2, medjahdi.khadidja@yahoo.fr

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Abstract:

Startups have emerged with a vision to meet consumer needs as quickly as possible while ensuring the

effective quality of goods, by creating new markets within a competitive framework, keeping pace with technological advancements with the aim of increasing income and building wealth in the face of declining general income levels.

To this end, Algeria has implemented a set of mechanisms and tools to promote and develop startups in various economic sectors, with the objective of creating job opportunities on the one hand, and upgrading the national economy beyond hydrocarbons on the other, given that exports are a fundamental driver of global economic growth and development.

Key words: Startups, Economy, Business Incubators, Globalization.

Introduction:

Due to the spread of the coronavirus, the world has known several successive economic crises. The main cause is that economic activity was halted and trade disrupted by the closure of land, sea and air transport routes.

And the closure of the majority of businesses out of fear of spreading the disease between workers, which led to a search for solutions that revived the global economy after the economic crisis that touched almost the majority of the states.

As a result, start-ups have received special attention because they are the solution that addresses the consequences of the economic crisis after the demise of the pandemic, whose priority is to focus on creating new jobs opportunities from a side and to keep progress with the technological development and new technologies to improve the national economy on the other side .

* Corresponding author,

The start-ups have adopted the idea of satisfying consumers needs in a short time possible while ensuring the effective quality of goods by creating new markets within the framework of competition by progressing the new technological development, aiming the increase in income and forming wealth at the same time as low levels of public income

With the encouragement of governments around the world, startups have worked to benefit from the behavioural changes in consumers after the corona pandemic, particularly the desire to shop on digital marketplaces, specially E-commerce.

Algeria has followed the example of other countries around the world in the support of start-ups, with the aim of reviving its national economy and working to distribute productive capacities to cover the economic crisis caused by the Corona pandemic, as well as trying to fill the national deficit caused by the drop in oil prices and petroleum hydrocarbons.

Therefore, Algeria has developed a set of mechanisms and means to promote and develop start-ups in different economic sectors, with the aim of creating job opportunities on the one part, and promoting the national economy away from petroleum on the other hand, as exports are a main source of growth and development in the global economy.

The importance of studying start-ups lies in the search for ways to support the global economy in general and the Algerian economy in particular, by researching the concepts of these start-ups, the legal systems on which they are based, and the tools used to promote and develop them, especially since start-ups and business incubators are facing several challenges imposed by globalisation.

We have selected to study this theme because of its modernity on the one hand, and its importance in the development of the economic, social and legal aspects in the country on the other hand, in order to get an overview of the legal system for start-ups in Algerian legislation.

In order to contribute to the study of this topic, we decided to pose the following questions: What is the meaning of start-ups in Algerian legislation? What is the legal framework used to support and finance start-ups in Algeria?

To solve the question, we adopted a descriptive and analytical method, through which we describe start-ups by identifying them and analysing the legal texts regulating start-ups.

Therefore, we have divided the topic into two sections: the first section deals with the concept of start-ups in Algerian legislation, while the second section is dedicated to the study of legal mechanisms to support and finance start-ups in Algerian legislation.

In the conclusion, we present the results obtained through the study of this topic, and then present a set of suggestions at the end of the study.

1-the concept of the start ups

The start ups is considered as a modern method that the state uses it to develop its national economy cause it satisfies the general needs from the social side , and it achieves the economic growth from the other side , for that we had to determine the general concept of the

start ups by giving the definitions included in the first subtitle and its characteristics and importance in the second subtitle .

1-1-the definition of the start up in the Algerian legislation

As a part of the development of the national economy, the Algerian legislator has adopted a legal system to regulate start ups, and has defined it in the law number 15-21 containing the directive law on scientific research and technological development .¹

He also cited its definition in law number 02-17 of the small and medium enterprises directive law², as well as in the 2020 financial law³ , also in the executive decree 20-254 establishing the national committee for the awarding of the start up and innovative enterprises label and defining its functions , composition and functioning .⁴

1-1-1-the start ups definition according to the law number 21-15

The Algerian legislator has defined a start up in the law 21-15 containing the directive law on scientific research and technological development in article 06 from as : " an organization that undertakes the realization of basic or applied research projects on those that carry out research and development activities ",by extrapolating we find the article does not directly define a start up , but instead defines some of the terms that refer to it , and the article 06 above is limited by outlining the functions and competences of start ups.

1-1-2-the start ups definition according to the law number 17-02

the Algerian legislator defines the start up in the law number 17-02 related to the small and medium enterprises directive law in article 21 as : " the ministry charged of small and medium enterprises establishes guarantee funds and launch funds an accordance with current regulations with the aim of guaranteeing loans to SMEs and promoting start ups in the framework of innovative projects "

what we notice from this article that it has highlight the mechanisms of mechanisms for financing SMEs and start-ups through guarantee funds and launch funds, as start-ups are a new economic model based on knowledge and innovation, without giving a definition of start-ups.

1-1-3-the start ups according to the law number 19-14

According to the Law 19-14, which includes the 2020 Finance Law, the Article 69 addresses the idea of startups in Algeria, stating: " Startups are exempt from corporate profits tax and value-added tax for trademarks. "

By analysing this article, we notice that the Algerian legislator did not mention the definition of start-ups in this article, but only outlined the facilities provided by the state to these enterprises, which include tax privileges, because it contribute in the promotion of their growth by exempting them from the burden of tax charges.

Article 131 from the same law above it stipulates: "A special allocation account shall be established in the Treasury under the number 150-302 entitled the Fund for the Support and Development of the Economic System for Start-ups." We notice from this article that the

Algerian legislator created a special allocation account for start-ups under the Fund for the Support and Development of the Economic System for Start-ups to provide financial assistance in order to encourage young people to establish this type of institutions in various domains because of their effective role in achieving national development

1-1-4-the definition of start ups in the executive decree number 20-254

Executive Decree No. 20-254 establishes a national committee for the award of the Startup, Innovative Project and Business Incubator Label and defining its functions, operation and composition, Article 11 of this decree defines startups in Chapter 4, entitled "Conditions for the award of the Label", by including a set of standards exclusively, which are :

- The organisation must be subject to Algerian law .
- The duration of the organisation must not exceed 8 years .
- The organisation's activity and business must be focused on products and goods of any nature and type.
- The organisation's activity must be based on an innovative idea
- The annual turnover of the organisation must not exceed the limit imposed by the National Committee.
- At least 50 % of its capital is owned by natural persons or investment funds approved by organisations holding the Startup Label.
- The organisation's activity has a high growth potential, which is a characteristic of a start-up organisation, at the expense of each country.
- The number of employees does not exceed more then 250.

From this, we conclude that the definition of a startup in Algerian legislation is not clear, based on a review of all laws and decrees regulating it , until the promulgation of Executive Decree No. 20-254 related to the establishment of a startup, an innovative project and business incubation, through which the necessary standards for considering an enterprise as a startup were defined, while referring to its definition in jurisprudence, it is "new companies created by an entrepreneur or a group of persons , with the aim of developing a product or a special service to launch it on the market, depending on its nature and with limited business at its establishment and launch, starting with an initial investment amount set by the founders or a relative."⁵

1-2-the characteristics of start ups and its importance

According to the previous articles from the Algerian legislation mentionned in the first subtitle we can conclude the characteristics of start ups in the first title and then we highlight the importance of start ups in the second title

1-2-1-the characteristics of start ups

Based on the legal texts mentioned above, we find that start-ups are characterised by a set of characteristics, mainly:

First: They are organisations Recently established

This characteristic is stipulated in Article 11 of Executive Decree 20-254 in its second paragraph which means it is A recent organisations that it can not exceed 8 years since their establishment, and are working to develop themselves by adopting a creative idea or a new innovation⁶

Secondly: Reliance on modern technologies

One of the most important characteristics of startups is that they rely on Original ideas, using smart methods, Especially the reliance on digitalisation and the knowledge economy , to develop their activity, in addition to their ability to form an effective network to find funding using online platforms, or by winning help and support from business incubators⁷.

Third: Replicating a sustainable model

Every startup is reproducible such as Airbnb and Uber, and the known example of this is the business that is founded in different environments and at a large scale run by a different team while maintaining the same profitability rates, and it may require minor and sometimes necessary adjustments to adapt the model to the local context, but logically if the company satisfies a precisely defined need or provides a service oriented to marketing at a certain scale, it is difficult to call your company a startup.⁸

fourth: Speed of growth

A startup has the potential to scale up its business very quickly, leading to an increase in the amount of production and sales without increasing costs, relying on the capabilities that promote its growth and achieve revenue much faster than the costs it requires to operate, making it very profitable.⁹

Fifth: They are independent organisations

Startups are considered independent, meaning that they are not affiliated to any pre-existing organisation or branch of it, the startups must start from scratch and do not rely on any support from other organisations, as they grow gradually and through stages, which are called the life cycle of the startup, which is represented by the stage of building and launching the idea, then the launch stage, the growth stage, the disappearance stage, and the stage of increased growth.¹⁰

2-The importance of start-ups

Start-ups play a major role in the development of the local and global economy, as they work to support the economy by keeping pace with large enterprises in various domains from a side, as well as creating many jobs opportunities on the other side, and they have a crucial role in economic development, as they bring added value to the country and change the lives of consumers, by giving them permanent solutions.

However, for many years, Algeria remained far from this active sector, and it was only after the election of the President of the Republic, Mr Abdelmadjid Tebboune, who was determined to change the situation, that the start-ups owns now their special ministry, where they work through technology with the aim of changing the country for the benefit of all Algerians, thus playing a major role in innovation to create jobs or achieve economic development, the importance of start-ups can be highlighted in the following points: ¹¹

- Providing many job opportunities for young people, especially in light of the decrees of the employment rates

- Contributing to raise the competitiveness of start-ups, which leads to the development of the local economy

- Promote innovation, technology and economic competencies by generating new economic knowledge at an accelerated pace

- Attracting capital and increasing the volume of investment

2-Legal mechanisms to support and financing start-ups in Algerian legislation

Small enterprises rely on the entrepreneur himself, who finances the institution either with his own money or through a bank loan, while start ups rely on modern funding sources that have been invented to support these institutions, which play a major role in supporting the local economy. These funding methods are represented in a special fund for financing emerging enterprises and the privileges and tax incentive measures granted to the owner of the enterprise, which we will address in the first subtitle and the risk capital and investment capital, which we will address in the second subtitle , and participatory financing and leasing, which we will address in the second requirement.

2-1-The Startup Fund and tax incentives and privileges

A special fund to finance startups was established under Article 131 of the Finance Law 2020 within a special allocation account in the Treasury No. 150-302¹², and the official launch of the fund took place on 03 October 2020 during the National Symposium for Startups in Algiers in the presence of President Abdelmadjid Tebboune and the Prime Minister, with the participation of more than a thousand participants from startups, incubators, representatives of government and financial bodies, economic operators, experts, representatives of associations, universities and research centres, and through this requirement we will try to clarify the mechanisms and importance of the fund through the first section, then in the second section we address the privileges and tax incentive measures.

2-1-1- Mechanisms and Importance of the Fund

This fund relies on a financing mechanism based on investment in the capital of the startup company, as it does not work on traditional financing mechanisms based on loans, so that this fund is considered as a partner to the institution, as it shares profits as well as losses, as it invests in the project and takes about 10%¹³.

This fund organises two cycles to study funding requests according to its capabilities, for the sectors that this fund finances, which are represented in all sectors that add to the

national economy, especially the sinking sectors that need the establishment of start-ups and funding from the fund.¹⁴

2-1-2- Privileges and tax incentives measures

to support the start-ups, the government has granted every institution labelled the "start-up", "innovative project" or "incubator" several privileges, with the aim of giving them favourable conditions to accelerate the fulfillment of their innovative projects, according to the Finance Law of 2021 under Articles 81 and 87, which exempts these institutions from paying the professional activity levy, as well as exempting them from paying tax on corporate profits or on general income, as the case may be, for the label, with one additional year in case of renewal and, exemption from value added tax and application at 5% of customs rights, in favour of enterprises bearing the "Startup" label for equipment that is directly involved in the realisation of their investment projects, in addition to the exemption from value-added tax and the application of a rate of 5%¹⁵

Incubator organisations are also exempt from the professional activity levy and income tax on the label, They are exempted from VAT for equipment purchased by them and directly involved in the realisation of their investment projects¹⁶

Thus, the institutions bearing the "Startup" or "Incubator" mark shall submit to the competent tax authorities regionally a decision of this mark delivered in accordance with the conditions specified in Executive Decree No. 20-254, which includes the establishment of a national committee to grant the "Startup", "Innovative Project" and "Business Incubator" mark, a list of equipment that is directly involved in the implementation of investment projects bearing the Startup or Incubator mark, which must be approved by the scientific and technical council of the institution for the promotion and management of support structures for emerging institutions "algeria aventure".¹⁷

2-2- The Capital Risk and the Venture Capital

The startup fund relies on investing in capital, which includes taking risks, for that it is called financing through risk capital, which we will address in the first title, and through we will address venture capital in the second title.

2-2-1-Risk Capital

Funding through risk capital is suitable for start-ups that face difficulties in obtaining bank loans, due to the absence of the necessary guarantees¹⁸, and risk capital is based on participation where the participant finances the project without guaranteeing the return or the amount of the project, as he risks his money, it helps most start-ups that face difficulties in this area, because the banking system refuses to give them loans due to the lack of guarantees.

The contribution of venture capital is not limited to money only, but extends to have a follow-up and provide advice and guidance, which enables the startup to manage its projects well and benefit from expertise and modern management techniques, and one of the most important issues that startup owners face from is access to funding¹⁹.

In this case, the VC does not exit from the start-up until the enterprise is able to produce and grow independently, and the VC's funds are not due and payable if the status of the start-up does not support this, considering that they have become part of its own funds²⁰

according to the Algerian legislation, we find that it did not address risk capital but investment capital, in Law No. 01-11 on venture capital companies.

2-2-2- Venture Capital

The Algerian legislator defines venture capital as "The venture capital company aims to participate in the capital of the company and in every process of providing shares of private or semi-private funds to enterprises in the process of establishment, growth, transformation or privatisation."²¹

The new institutions are supported by providing technical, administrative and financial support, as well as guidance, especially at the beginning of their launch and financing them without requiring guarantees. It also works to support struggling institutions, as venture capital contributes to attracting investment to troubled institutions and motivating them to reform their path by providing support to them, in addition to supporting economic reform programmes, by providing financing and the necessary technical and administrative expertise for economic projects.²²

2-2-3- Participatory Finance and the Rental Credit Contract

Participatory financing plays an effective role in financing new projects, which are unable to finance their projects due to the limited resources and the large amounts required to implement these projects, while leasing is an alternative to financing investment projects because of the equipment it provides to overcome multiple problems.

Through this subtitle, we will try to address participatory financing in the first title , and then address the Rental Credit Contract in the second title.

2-2-3-1- the Participatory financing

Participatory financing, also called crowdfunding, is a capital formation strategy that collects small amounts of money from a large group of people via the Internet, in other meaning , it is obtaining funding for a project or organisation by collecting monetary donations from a large group of people.²³

To realise this type of financing, we rely on three main parties: the entrepreneur who searches for funding, the individuals or institutions that contribute financially to the project, and the third party is the technological systems that connect the supply and demand sides (online platforms)²⁴

We can divide participatory finance into four basic types:²⁵

1-financing based on debt : This type is similar to the entrepreneur's request for a loan from a financial institution, where the lender supports the entrepreneur in return for interest, in this system the process of applying for a loan is faster, and there are better interest rates than those found in banks.

2-Finance Based on Equity :This type invests their money in companies in exchange for ownership or repayment with interest, and the special side of this type of financing is that the internet can be used to reach more potential backers than the previous used types of financing.

3-funding based on donation: This funding is mostly obtained by charitable organisations that aim to help an individual or a group of individuals to establish their projects without receiving any financial return back

4-financing based on reward: This funding is more comprehensive than the concept of donation, This can be a physical or non-physical reward such as a dinner with the creators or something simple as a greeting card.

The importance of this funding is that it introduces the startup's idea all over the world without taking time to be known for investors, and it also enables the online crowdfunding platforms to reach thousands of investors who support the startup's idea, unlike traditional funding institutions that usually impose a company's requests to obtain a loan.

2-2-3-2- the Rental Credit Contract

The Algerian legislator addresses the Rental Credit Contract as a financing mechanism in Article 112 paragraph 2 of Law No. 90-10 related to Money and Credit, and in 1991²⁶, the legislator defined it and regulated its legal framework under Law No. 01-90 of Leasing Credit.²⁷

Thus, the Rental Credit is intended to help the economic operator to obtain the equipment and supplies he needs for the purpose of equipping his economic enterprise , as the Rental Credit grants the leasing institution to purchase the necessary machines at the end of the contract, the implementation of the process passes through several stages that can be summarised in the following steps²⁸:

- The hirer chooses the vendor from which to buy the assets and negotiates the specifications of the assets.

- The vendor provides the hirer with documentation relating to its selection that specifies the price and description of the asset, such as the initial invoice

- The hirer will deposit a rent finance application along with the initial invoice along with the rest of the required file.

- After examining the finance application, the lessor will open a finance in favour of the renter by reducing the total amount of the invoice.

- The hirer informs the importer of the machinery purchase agreed between the lessee and the importer

- The lessor and the supplier conduct the necessary procedures to transfer the ownership of the assets from the supplier to the lessor.

- The hirer is informed of the lessor's receiving the machinery and before the lessee receives the machinery, he signs a hire-rent contract with the lessor, with the promise of the

lessor (bank, leasing company) to sell it to the lessee through agreed instalments at the end of the duration.

At the end of the contract, the hirer has three options either to return the leased asset to the owner, renew the hire on new terms, or purchase the leased asset at the contract value specified in the contract.

Conclusion:

Start-ups are based on an innovative idea that works to open new business opportunities under great financial needs. They have an important role in economic, political and social development, whether in developed or underdeveloped countries, due to their characteristics, such as accelerating the process of economic growth, the ability to change rapidly, permanent development, and encouraging self-employment.

Business incubators are legal organisations that focus on supporting businesses between the beginning and development stages, as well as helping young people to launch their own start-ups, that's the reason why business incubators have become a useful tool to reduce the failure rate of start-ups.

Algeria has given great attention to the startup sector by adopting a new strategy to develop the investment environment on the one side and to activate the role of startups to promote the national economy on the other side, so it was necessary to emerge a legal system for these enterprises.

The Algerian legislature has expressed its interest in supporting start-ups by creating several effective institutional bodies and authorities to support them through monitoring and follow-up. It has also expressed its intention to support these enterprises by establishing financing measures to develop this sector, which helps to promote the national development process.

Through our study of this theme, we have analysed a number of suggestions, including:

- The development of regulatory legislation to regulate the work of the mechanisms that support start-ups, as all the existing texts are dispersed.
- Diversify funding for startups, such as Islamic financing.
- Creating legal protection for startups, as they are as capable of success or failing.
- Introducing technology and digitising to support start-ups

Footnotes:

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Second :Arabic source

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