

The Importance of Legal Security Principle and its Relationship with Energy Security and the Future of Renewable Energies in Algeria

أهمية الأمن القانوني وعلاقته بالأمن الطاقوي ومستقبل بطاقات المتجددة بالجزائر

Dr. Boubechiche Yacine *

The University of Batna 1

Laboratory of human security

boubeyacine@gmail.com

S/D. MANSOURI Mohamed Charif

The University of Oran 2

TRANSMED Laboratory

mansouri.mohamed@univ-oran2.dz

The date of Submission: 2023-12-09

The date of acceptance: 2024-06-05

Abstract:

The law is a source of guarantee and stability for investment in energy security and its relationship to Algeria's various renewable energy mechanisms. The definition of the legal framework for this study will be central. In this context, the problems of research in this paper will be based on answering the following questions:

What is the importance of legal security? How can its relationship to energy security encourage investment in renewable energies? In addition, what guarantees is guaranteed by legal security as an essential element for attracting investment?

According to the above-mentioned questions, energy security is presumed to be linked to the extent of the Government's effective energy policies by moving from traditional depleted energy sources to renewable energies and allocating safeguards and appropriate mechanisms to make domestic and international investment subject to legal security requirements.

Keywords : Energy Security, renewable energy, legal security, investment, legal framework.

المخلص:

يعتبر القانون مصدر ضمان واستقرار الاستثمار في مجال الأمن الطاقوي، وعلاقته بمختلف الآليات المتعلقة بالطاقة المتجددة في الجزائر، فإن تحديد الإطار القانوني لهذه الدراسة سيكون أمراً محورياً. وفي هذا السياق، فإن إشكالية البحث في هذه الورقة سيرتكز على الإجابة على التساؤلات التالية:

ما هي الأهمية التي يكتسبها الأمن القانوني؟ كيف يمكن لعلاقتها بالأمن الطاقوي أن تشجع الاستثمار في الطاقات المتجددة؟ بالإضافة إلى ذلك، ما هي الضمانات التي يكفلها الأمن القانوني كعنصر أساسي لجلب الاستثمار؟ ووفقاً للأسئلة المذكورة أعلاه، يفترض أن الأمن الطاقوي يرتبط بمدى السياسات الفعالة للطاقة التي تطبقها الحكومة عن طريق الانتقال من مصادر الطاقات المستنفذة التقليدية إلى مصادر الطاقات المتجددة وتخصيص الضمانات والآليات المناسبة لجعل الاستثمار المحلي والدولي خاضعاً لمتطلبات الأمن القانوني. الكلمات المفتاحية: الأمن الطاقوي، الطاقات المتجددة، الأمن القانوني، الاستثمار، الإطار القانوني.

* Corresponding Author.



Introduction:

The renewable energy issue has undoubtedly attracted great interest at the local, national and international levels, recognising its central importance via an objective-centred approach to develop its exploitation. In this regard, Algeria realised the vitality of energy resources for their contribution to boosting the domestic economy in that they are deemed fundamental to any development process. Besides, traditional energy such as oil and natural gas have been the primary energy sources upon which the country depends. Another issue to consider is the tremendous significance of investment in renewable energy and its relation to the future of energy and energy security since having large quantities of fossil fuels depends on any adopted techniques and strategies to conserve energy and reserves. This is mainly because Algeria attempts to use alternative and renewable energy in different domains through different programs associated with a body of laws to facilitate and encourage such an investment.

There is a joint agreement that economic and political stability are interrelated, thereby providing sufficient energy security is urgently needed. Such a situation stressed placing critical importance at political and strategic levels, especially with the persistent need for more energy in an unstable worldwide economy because of the oil prices decline everywhere. Ergo, there shall be an arising necessity to invest in renewable energy in an appropriate atmosphere, especially when legal security is promoted. This is because the investor, be they national or foreign, would consider the encouraging initiatives that legislation and regulations provide for, in that they would not start a business unless they realise the effectiveness and non-obstructing existing laws.¹

Thus, as the law is deemed the source of guarantee and stability of investment, such as energy security and the different mechanisms related to renewable energy in Algeria, delimiting the legal framework for their study shall be pivotal. In this vein, the research problem in this paper is:

What importance could legal security have? How might its relation to energy security encourage investment in renewable energy? Furthermore, what guarantees could devote legal security as an essential element to bring investment?

According to the research questions mentioned above, it is hypothesised that energy security is related to the extent of the effective energy policies applied by the government by moving from traditional depleting energy sources to renewable ones and devoting appropriate guarantees and mechanisms to bring local and international investment under legal security requirements.

In the same line of thought, the research paper is divided into two main axes as follows:

The First Axis: Conceptual and Theoretical Underpinnings

- **First: Energy Security and Renewable Energy Conceptual Meaning**
- **Second: Legal Security Definition**

The Second Axis: The Legal Framework and the Followed Procedures

- **First: Adapting Legal Mechanisms to Develop Renewable Energy in Algerian Legislation**

¹- **Aloui Fatima**. "The Role of Legal Security in Promoting Investments in Algeria" Economic Journal of El-Bachair, N°04, April, 2016. P 148.



• Second: The Relation between Legal Security and Investment in Renewable Energy

The foreign investor proceeds to transfer his capital only if the host State grants them a motivating treatment. This illustrates why the investment project could only be implemented in an appropriate atmosphere, as the investor aspires to operate in complete legal security in that the latter constitutes a fundamental factor in determining the competition ability of any country to potentially expand its opportunity as an attractive investment market. A certain deterioration in the notion of the legal security which the foreign investor may claim in addition to the decline of authority in terms of foreign investments governance.¹

The First Axis: Conceptual and Theoretical Underpinnings

We shall discuss energy security and renewable energy conceptual meanings in addition to defining legal security.

First: Energy Security and Renewable Energy Conceptual Meaning

In fact, the concept of security has witnessed many developments after the Cold War, including military, social, and cultural angles. Barry Buzan, for example, provided a distinction between five knitted fundamental sectors of the concept of security, namely:

1- **Military Threats:** mainly pertain to a state's capability in defense and attack and having a comprehensive insight towards other states' intentions.

2- **Political Threats:** these account for the structural stability that legitimises states, governments, and ideologies.

3- **Economic Security:** shall be related to financial resources and necessary markets to constantly conserve the state's power. This, in fact, made way to the competition among countries to control global markets, which per se led to conflicted vested interests.

4- **Societal Security:** pertains to the ability of a society to regenerate appropriately their own linguistic, cultural, national identity, religious, customary and traditional components in addition to threats to societies' identities and cultures.

5- **Environmental (Ecological) Security:** shall be related to the conservation of local and cosmic biosphere, as they constitute the essential support for human enterprises. Buzan also defined environmental security, as pertaining to "the maintenance of the local and the planetary biosphere".² In the same vein, two other sectors are found in the United States Human Development Report published in 1994, namely:

The Humanitarian Dimension: shall be related to valuing human dignity, ensuring political and civil rights exercise, and realising social justice.

The Nutritional Dimension: pertains to hunger and starvation and the inability of poor countries to cater for their citizens' needs.

Nonetheless, the body of literature did not only include Buzan's famous five security sectors, nor be it limited to those provided by UNHD in 1994, but also added new ones such as energy security. In fact, the latter is not a recent concept; Winston Churchill was the first to coin this term during WWI to achieve unity and cohesiveness among countries.

¹- ZOUAIMIA Rachid. "A quest for Legal Security in Foreign Investment". Academic Journal of Legal Research. Vol 12, N°01 (Special Issue). 2021. p. 631.

²- Äouatef Moumen. "Energy Security in Algeria: Conditions and Challenges". Algerian Review of Security and Development. Vol 10, N° 03. July 2021. P 124.



1- Energy Security Meaning:

In fact, energy security conceptual meaning is narrowed down to account for the guarantee of supplies at reasonable prices without interruption. Such an incomplete definition lacks many angles generated from recent events on the globe, leading to the belief that it has become necessary to be paraphrased considering the recent international developments. Consequently, this pivotal movement widened the meaning of energy security, such as Barton's definition to the said concept as "a condition in which a nation, and all, or most, of its citizens and businesses have access to sufficient energy resources at reasonable prices for the foreseeable future free from the serious risk of major disruption of service".¹

Such inclusive definitions did not only cover the supplies but also the technological developments and transportation processes. In other words, the realisation of energy security might depend on three levels successively during exploration and production. The first one is the Up-stream level, which encompasses the external factors, such as climate and the absence of national stability, that impact energy security. The Mid-stream level pertains to the transportation lines of oil and gas that might be subjected to problems such as traffic accidents, thereby negatively influencing energy security. The Down-stream level is all about guaranteeing the transportation and distribution of energy resources and supporting the body of existing laws and regulations.²

2- Renewable Energy Meaning:

Regarding renewable energy, various definitions are found in the literature, such as "The group of energy found in nature repeatedly and periodically. That is, auto-generated and non-depleted". The Organization of Petroleum Exporting Countries (OPEC) provided another definition as the energy that shall be generated from natural, non-depleting resources available everywhere on earth and quickly transferred into power.³

In a different manner, renewables are interchangeably called 'green energy' or, again 'clean energy', meaning that they are constant and environmentally friendly. In this line of thought, other definitions were suggested by different organisations and institutions, such as:

The International Atomic Energy Agency (IAEA): Renewable energy is those resources generated from nature in a renewable manner, such as sunlight and wind, whose replenishment rate overtakes consumption.

The Organization of Arab Petroleum Exporting Countries (OAPEC): Offered a definition to renewable energy as the power that periodically comes from natural sources contrary to non-renewables, mostly found underground and deemed useful only after being extracted by humans.

The United Nations Environment Program (UNEP): defines renewable energy as a non-precipitated and unlimited energy found in nature at a higher rate than its consumption in the following forms: Bio-massive, solar, wind, hydroelectric and geothermal.⁴

¹- Äouatef Moumen. *Idem*. P 124.

²- Nabil Ben Hamza. "Energy Security in Algeria, a Theoretical Etymological Study". Algerian Review of Security and Development. Vol 10 N° 03. July 2021. P 85.

³- The Organization of Petroleum Exporting Countries (OPEC). Annual Report 33, 2007. P 112.

⁴- Houda Badrouni. "The Investment and the Role of Renewable Energy in Achieving the Duality of Environment Protection and Sustainable Development in Algeria". Riyeda Journal of Business Economies. Vol 06, N°03. January 2020. P 130-131.



Jurisprudence also defined renewable energy as coming from natural, non-depleting, but renewable resources. Another definition of this concept is found in the Algerian legislation specifically in article three of the Renewable Energy Promotion within Sustainable Development Policy Act N° 04-09 issued on Jumada Ethania 27, 1425, corresponding to August 14, 2004. It provides for that renewable energy consists of any energy of electric, mechanic, thermal or gaseous form obtained out of the transfer of solar radiation, wind power, geothermal power, organic wastes, hydropower, and biomass use techniques. It might also include the bioclimatic-based architecture techniques that lead to various methods of energy saving.¹

Article two of the aforementioned act offered a range of objectives for the promotion of renewable energy as follows:

- Protecting the environment by promoting the use of non-polluting energy sources,
- Contributing to the fight against global warming by limiting gas emissions that cause the greenhouse effect,
- participating in sustainable development by conserving the non-renewables and
- Contributing to the national regional planning policy by promoting and generalising renewable energy sources.

Besides, Article Four thereof determined the field of application of the processes aiming at transferring renewable energy from their primary form to their final form, especially in these areas:

Solar energy: (Photoelectric transfer, thermal transfer and thermodynamic transfer).

Biomass energy:

(Wet transfer via methane and alcoholic fermentation and dry transfer via combustion, carbonisation, and gasification).

Wind energy: (Mechanical and electromechanical transfer).

Geothermal energy: (Recovery via heating).

- *Hydroelectric energy:* (Electromechanical transfer).

- *Materials and techniques* pertaining to bioclimatic architecture that permit a possible achievement of an effective renewable energy saving.

Second: Definition of Legal Security Principle:

The security concept seems so controversial, dynamic, and relevant to national and international events that it is hard to find an inclusive definition to the compound word 'legal security' in any legislation. Nevertheless, as it constitutes the pillar whereon the country that devotes rule of law is based, the judicial assiduousness process could define it.² Thus, deducing the concept of legal security through analogy in jurisprudential standards, as a primary step, makes it similar to the concept of *legitimate confidence*.

1- Legitimate Confidence:

It accounts for the creditor's perception towards the debtor, especially when the public authorities support it, such as when a judge enforces a contract. The principle of legitimate

¹- **Act N° 04-09** pertaining to Renewable Energy Promotion within Sustainable Development Policy issued on Jumada Ethania 27, 1425 corresponding to August 14, 2004. Official Journal of the Republic of Algeria N° 52 issued on August 18, 2004.

²- **Ismail Djabourbi**. "The Basics and Elements of Legal Security Principle" Ettahaoulat Journal N° June 02 2018 P 191-192



confidence also signifies that the administrative forces shall be committed to keeping and respecting the aspirations they generate in favour of laypersons. Although legitimate confidence stems from legal security, jurisprudence differentiates between the two principles because they are not identical; if legal security guarantees the obtained rights, legitimate confidence represents the legal security aspect for achieving justice. The Court of Justice of the European Union (CJEU) defines legitimate confidence as the clarity and preciseness of laws, thanks to which the individual recognises their rights and duties, thereby choosing what to decide.¹

2- Legal Security Formal Definition:

In fact, formal definitions in legal documents are generally offered in such a way to be along a line, so to speak, between judicial-legislative and jurisprudential ends. Nonetheless, attempting to define legal security at the judicial-legislative end would not be fruitful because scholars refuse to reject defining unclear modern concepts. This made the jurists attempt to suggest appropriate definitions despite seeming challenging to achieve. That is why jurists prefer to offer a meaning instead of a definition because the latter is dynamic, polysemous, and ambiguous². More to the point, being a fundamental component in the security that law offers; with its compound nature woven with other legal principles, makes legal security an area of difficulty³. The main objective of legal security achievement is to guarantee considerable stability to law-based relationships and relative stability to legal positions. This will allow individuals to act according to the existing rules without subjection to unexpected abusive behaviours that might destabilise them.⁴

Besides, legal security aims at stabilising legal positions, law-based relations, and even legal texts in that it does not act as a mere perception but as a full process⁵. Legal security could also be defined as a principle that seeks to organise and stabilise the legal system and guarantee human rights within humanitarian and societal security domains via enforcing law and ensuring justice⁶. Moreover, Legal security is a principle whose main objective is to protect laypersons from the deficient side of the law, primarily regarding inconsistencies found in legal texts, ambiguous laws and regulations, or periodic updates⁷.

¹ - **Abdelmadjid Ghmaidja**. "The Legal Security Principle and the Necessity for Judicial Security". Symposium of Hasniya Friendly Association of Judges; Conference 13 of the African Community of International Union of Judges on March 28, 2008. P 19. Casablanca, Morocco. (Presentation).

² - **Belkhir Mohamed Ayt Öudiya**. Legal Security and its Principles in Administrative Law". Dar Elkhaldounia, Kouba, Algiers. 2018, P 19.

³ - **Ahmed Fat'hi Serour**. Criminal-constitutional Law " Constitutional Legality in Penal Code, Constitutional Legality in Criminal Procedures Code" Dar E-Shorouk, Cairo, Egypt, 3rd version 2004, P85.

⁴ - **Mohamed Mounir Hassani**. "The *Conseil Constitutionnel* Mechanisms to Achieve Legal Security. A Presentation in the National Conference of Legal Security. Faculty of Law and Science.

⁵ - **Abdellah Laâouidji**, Legal Security and the Constraints to its Realisation in Algeria. A Presentation in the Online National Conference of the Impact Legal Security on Developing Investment. February 04, 2021. Faculty of Law and Political Sciences. Batna University1, Algeria.

⁶ - **Cherneva Boyka Lvaylova**. Legal Security as a Principle in Lawmaking, G.S.I.J .N°2(14), University of Economics and Innovation in Lublin, Poland. 2017 P 28.

⁷ - **Kamel FENNICHE**. "*Conseil d'Etat* Jurisprudence and Legal Security Concept R.C.C." N°13-2020, (Specialized half-year journal)- Studies (In French). p 11.



Legal security, as a universal concept is called “الأمن/اليقين القانوني” transliterated as “Elamn/Elyakine el kanouni” in Arabic, “Sécurité Juridique” in French, and “Certezza del diritto” in Italian¹.

3- Juridical Definition of Legal Security

In its report issued on March 24 2006, the French “Conseil d’Etat” suggested that legal security principle implies that laypersons shall easily stand on a position in such a way as to align themselves with what the law allows and to comply with what the law prohibits. Such law must be clear, understood, and not subjected to unexpected or periodic modifications².

4- The Subjective-objective Compound Definition of Legal Security

regarding subjective criterion, the legal security concept is limited to stabilising the underlying legal principles to maintain the parties’ legal positions, whereas the legal principles hierarchy constitutes the main point whereon objective criterion works. Therefore, it can be bear in mind that legal security has started as a concept and ended as a principle aiming at ensuring a sense of stability and protection to legal positions and contractual relationships. This can be best achieved through issuing unambiguous, uncomplicated, and cohesive laws that do not carry any unexpected qualifications and case descriptions, thereby ensuring confidence among legal parties and that the law would be surely enforced³.

5- The Constitutionality of Legal Security Principle:

The Roman legal system has so attracted many historians, jurists and scholars that some considered Rome to have conquered the world thrice: by its army, religion and legal system. Others went beyond to believe in the universality of the Roman legal system, nay being the sole representative of human unity. Moreover, it shall be the most fruitful work ever of Romans, and so will it be forever⁴.

Legal security per se, is initially deemed a Roman idea implied within the law of twelve tables. The latter acted as a new approach wherewith the priests’ monopoly and control of law over ordinary people was ended. Furthermore, the law of the twelve tables ensured legal security in that the magistrate (praetor) at that time was intervening in matters considered outside the law’s concerns⁵.

However, things have changed now: the constitution stands at the top of legal principles and hierarchy. Ergo, shall the legal security principle be considered constitutional or just legal?

German legal system has preserved the principles and concepts inherited from Roman law, including the legal security. That is why the said concept does not form an area of concern, as it constitutes an independent principle in German constitutional law thanks to the Federal Constitutional Court in Germany. The legal security principle, as an essential element of the principle of the rule of law, was upheld on December 19 1961. It has thenceforth entailed that the citizen must be able to anticipate the state's possible interventions and act

¹- **Pizzorusso Alessandro**. Passaglia Paolo. Italie. In: A.I.J.C, 15-1999; 2000, Round-table, Constitution and Legal Security. Constitutional Law, Community Law and European Law. P 199.

²- **Belhamzi Fahima**. “Legal Security of Rights and Constitutional Liberties”. Doctoral Thesis of Public Law. Faculty of Law and Political Sciences. University of Ahmed Ben Badis, 2017/2018. Algeria P 31.

³- **Djellab Abdelkader**. “Legal Security Guarantees in Administrative Activities”. Doctoral Thesis in Public Law. Faculty of Law and Political Sciences. University of Ibn Khaldoun, Tiaret. 2018/2019. Algeria P 58.

⁴- **Salah Ferkous**. “History of Legal and Islamic Systems”. Dar Elôouloum. Annaba, Algeria. 2001 P 32.

⁵- **Belkhir Mohamed Ayt Öudiya**. *Idem*. P12.



accordingly. They also must ensure that their behavior, once complying with the enforcing law, will be recognised along with the associated consequences¹.

Things are slightly different in Portugal, where the constitution does not mention legal security even though it forms an essential element in a country where the principle of the rule of law is devoted. However, other directions, such as jurisprudence and constitutional assiduousness confirmed that the idea of legal security derives from the democracy-based country that does devote the rule of law. Security is undoubtedly a value that law ensures to be a source of confidence to citizens to have sufficient protection; this way, legal security must become law under the constitution to ensure a sense of reliability in addition to individuals' and societies' rights and relations².

Nevertheless, there is no indication of legal security in the French constitution, thereby, legal texts. Nay, the constitutionality of legal security is explicitly rejected by the French 'Conseil Constitutionnel' even though the latter indirectly offers protection to legal security via the principle of non-retroactivity of law and legislation quality³. Legal security developed thanks to many institutional and organisational recognitions, such as CJEU on April 06 1962, in Bosch case, in 1970 and on July 14 1972; also, the European Court of Human Rights (ECHR) in Sunday Times case on April 26 1979, and May 05, 1981, in Durbeck case through calling for the need to respect the legal security's component of anticipation, in addition to the case of Hentrich against France on September 22 1994. This kind of cases entails a range of law features such as preciseness and the predictability⁴.

In Algeria, the constitutional amendment in 2016 did not explicitly mention the concept of legal security but just referred to it indirectly. This is best manifested in the excerpts and articles taken from the constitution, such as: "The law represses power abuse", that came to mean that authoritative officials in executive, legislative or judicial bodies shall not misapply law, nor shall they enforce it against individuals, but they shall refer back to court in order to protect the individuals from abuse. Besides, article 25 thereof ensured that "The impartiality of the administration shall be guaranteed by law", and that "The State shall be founded on the principles of organisational democracy, the separation of powers and social justice". Besides, litigants in Algeria have always law on their side thanks to the protection it offers against any deviation by the judge. All of these examples support the complete fulfillment of the legal security concept⁵.

Legal security first appeared in the last constitutional amendment in 2020 in article 34, last paragraph "In order to guarantee legal security, the State, in implementing legislation relating to rights and freedoms, shall ensure the readability, accessibility and the stability of legal texts"; In addition to the preamble of the constitutional amendment that implies that

¹- Belkhir Mohamed Ayt Öudiya. *Idem*. P13.

²- Abdelmadjid Ghmaidja. *Idem* P 09.

³- Abderrahmen Ellamtouni. "Judicial Assiduousness and Legal Security". Judicial Assistant Journal. Higher Institution of Judiciary, Moroccan Kingdom. Vol 46, May, 2014. P 08.

⁴- Djeddi Ouafa. "The Role of Judiciary in the Realization of Legal Security: Between Independency and the Authority's Requirements". Anthology of: Legal Security and Achieving Development. Scientific Publications of the Laboratory of Law, Family, and Administrative Development Studies. Faculty of Law and Political Sciences. University of Mohamed Boudiaf, September 2019. P 137.

⁵- Abdelmadjif Lakhdari & Fatima Ben Djeddou. "Legal Security and Judicial Security; A Complementary Relationship". Eshihab Journal. Islamic Sciences Institution. Elouadi University, Algeria. Vol 04, N° 02, June 2018. P 391.



“The Constitution shall ensure the separation and balance of powers, the independence of the judiciary, legal protections, oversight of the work of public authorities, and legal security”, and the aforementioned principles¹.

The Second Axis: The Legal Framework and the Followed Procedures.

In the present part, we shall discuss the legal mechanisms, the means to adapt them to develop the renewables industry in Algerian legislation, and the relationship between the legal security concept and renewable energy law, specifically in the investment domain.

First: Adapting Legal Mechanisms to Develop Renewable Energy in Algerian Legislation

Algeria has been interested in renewable energy since 1983, thanks to a convention on developing new and renewable energy with the government of the Kingdom of Belgium, which concluded in Algiers on April 08 1982. In addition to mutually friendly relationships, the convention aimed at developing scientific, technical, and industrial cooperation. The said treaty was also signed because of the importance of cooperation for the establishment of the New International Economic Order (NIEO) according to the recommendations of the Nairobi Conference Program, especially in terms of the application of new appropriate economic techniques; developing the media, training and research; and the reinforcing cooperation between the parties.²

The first initiative was the Environmental Protection Act N° 83-03 issued on February 05, 1983; although abolished, it did not refer specifically to new and renewable energy but required, within a policy to protect the environment, to preserve and place value to the natural resources, improve the quality of livelihood in addition to forbidding and combatting pollution and harmful means.³

In order to make those legal mechanisms more transparent, we shall present the main legislative acts and laws.

1- Act N° 98-11 pertaining to the orientational law and quinquennial projection program on scientific research and technological development 1998-2002⁴ issued on Rabiû Ethani 29, 1419 corresponding to August 22, 1998:

It aims to promote scientific research and technological development, including that of the university, the national economic, social, cultural, scientific and technological growth, and the development of natural resources, the environment and ecological diversity.

The said act contains a particular clause to renewable energy, demonstrating the importance of renewable energy in Algeria and the challenges accordingly.

¹- **Articles** (16), (25), and (26) of the constitutional amendment of Algeria, 2020.

²- **Presidential Decree N° 83-131** issued on Jumada Eloula 06, 1403, corresponding to February 19, 1983, on the ratification of the convention on developing new and renewable energy, with the government of the Kingdom of Belgium, concluded in Algiers on April 08, 1982. Official Journal of the Republic of Algeria N° 08 issued on Jumada Eloula 09, 1403, corresponding to February 22, 1983.

³- **Environmental Protection Act N° 83-03** issued on Rabiû Ethani 02, 1419, corresponding to February 05, 1983. Official Journal of the Republic of Algeria N° 06 issued on Rabiû Ethani 25, 1419, corresponding to February 08, 1983.

⁴- **Act N° 98-11** pertaining to the orientational law and quinquennial projection program on scientific research and technological development 1998-200230 issued on Rabiû Ethani 29, 1419, corresponding to August 22, 1998. Official Journal of the Republic of Algeria N° 62 issued on Jumada Eloula 02, 1419, corresponding to August 24, 1998. Amended by Act 08-05 issued on February 23, 2008. Official Journal of the Republic of Algeria N° 10 issued on February 27, 2008.



It also refers to the sources that generate these energies, such as the enormous solar field covering an area of approximately 2.382 million km² with an annual capacity of more than 3000 sun-hours and considerable wind and geothermal energy ratios.

Again, such energy can be a future alternative to those in present use, especially in rural areas, forming a potential future market. Moreover, the act above encourages the exploitation of renewable reserves as an alternative national energy at a 1% ratio until 2050; therefore constituting an area of investment within small and medium companies that will reinforce the labour market.

2- Energy Control Act N° 09-99 issued on Rabi' Ethani 15, 1420, corresponding to July 28, 1999, aims at defining the conditions and the means of framing and putting into effect the policy of the national energy control¹.

It included all the procedures and practical activities whereby the use of renewable energy is rationalised, and the impact of the energy system on the environment is reduced. The rationalisation of energy use in this context means the best use of energy consumption starting from the processes of production and transfer to the final consumption in a range of spheres such as industry, transport, services, and family.

The same act discussed renewable energy, especially in the fourth article thereof, wherein renewables development was defined as introducing and promoting the different transfer categories of exploitable renewable energy, especially solar energy, geothermal energy, biomass, hydropower energy, and aeolian energy.

It also placed importance on developing and promoting renewable energy via the processes of financing and integration within the national economy. Article seven thereof illustrates this point by considering energy control as an activity of public interest that ensures the promotion, encouragement of technological development and the improvement of economic efficiency. Besides, it contributes to sustainable development by preserving and expanding the national non-renewable energy resources. The second chapter within the hereinabove act provides for the ways to implement the national energy control policy.

3- Act N° 01-20 pertaining to the sustainable development of territory planning issued on Ramadan 27, 1422, corresponding to December 12, 2001.²

The provisions therein determine the directives and territory planning tools that ensure development at the national level harmoniously and sustainably via specific mechanisms.

Article 33 in the same act implies the orientational plan of energy that aims to rationalise the exploitation of energy resources, develop renewables, and help combat environmental pollution and the effects of global warming resulting from the exploitation of non-renewables. The said article also links energy and economy, determining the conditions the state and local authorities should abide by. This is to manage energy control activities and produce and use renewable energy without exhausting the energy resources.

4- Act N° 04-09 on the promotion of renewable energy within sustainable development framework issued on Jumada Ethania 27, 1425, corresponding to August 14, 2004.¹

¹ - **Energy Control Act N° 09-99** issued on Rabi' Ethani 15, 1420, corresponding to July 28, 1999. Official Journal of the Republic of Algeria N° 51 issued on Rabi' Ethani 15, 1420, corresponding to August 02, 1999.

² - **Act N° 01-20** pertaining to the sustainable development of territory planning issued on Ramadan 27, 1422, corresponding to December 12, 2001. Official Journal of the Republic of Algeria N° 77 issued on Ramadan 27, 1422, corresponding to December 18, 2001.



Article three thereof made an explicit definition of renewable energy, especially in terms of their resources as all forms of electric, mechanic, thermal or gaseous energy obtained out of the transfer of solar radiation, aeolian power, geothermal power, organic waste, hydropower, and biomass use techniques. It might also include the bioclimatic-based architecture that might lead to various methods of energy saving. It should also be noted that all the aforementioned resources are also contained in Act N° 02-01 on electricity and gas distribution by ducts, issued on February 05, 2002.²

5- Act N° 11-11 on the complementary finance law for 2011 issued in Shaâban 16, 1432, corresponding to July 18, 2011.

Article 40 thereof implies the augmentation of the oil royalty ratio from 0.5% in 2010 to 1% to boost the National Fund for the Establishment and Development of Renewable Energy Technologies.³

From the available legislative texts, we can deduce that the acts and laws above and other supporting regulations have underlain the national policy for renewable energy, namely:

1- Executive decree N° 11-423 issued on Muharram 13, 1433, corresponding to December 08, 2011, determines the modalities for managing the special allocation account N° 131-302 entitled "The National Fund for Renewable Energy and Cogeneration".⁴

2- Executive Decree N° 13-218 issued on Shaâban 9, 1434, corresponding to June 18, 2013, determining the conditions for granting bonuses for the costs of diversifying electricity production (Amended and completed).⁵

3- Executive Decree N° 13-424 issued on Safar 15, 1435, corresponding to December 18, 2013, amending and completing Executive Decree N° 05-495 issued on Thu al-Qiûdah 24, 1426, corresponding to December 26, 2005, pertaining to the energy audit of the most energy-consuming facilities.⁶

¹- **Act N° 04-09** on promoting renewable energy within sustainable development framework issued on Jumada Ethania 27, 1425 corresponding to August 14, 2004. Official Journal of the Republic of Algeria N° 52 issued on August 18, 2004.

²- **Act N° 02-01** on electricity and gas distribution by ducts, issued on February 05, 2002. Official Journal of the Republic of Algeria N° 08 issued on Thu-al-Qiûdah 23, 1422, corresponding to February 06, 2002.

³- **Act N° 11-11** on the complementary finance law for 2011 issued on Shaâban 16, 1432, corresponding to July 18, 2011. Official Journal of the Republic of Algeria N° 40 issued on Shaâban 18, 1432, corresponding to July 20, 2011.

⁴- **Executive Decree n ° 11-423** issued on Muharram 13, 1433, corresponding to December 08, 2011, determining the modalities for managing the special allocation account N° 131-302 entitled "The National Fund for Renewable Energy and Cogeneration". Official Journal of the Republic of Algeria N° 68 issued on Muharram 19, 1433, corresponding to December 14, 2011.

⁵- **Executive Decree N°13-218** issued on Shaâban 9, 1434, corresponding to June 18, 2013, determining the conditions for granting bonuses for the costs of diversifying electricity production. Official Journal of the Republic of Algeria N°33 issued on Shaâban 17, 1434, corresponding to June 26, 2013, amended and completed by the Executive Decree N°17-166 issued on Shaâban 25, 1438, corresponding to May 22, 2017. Official Journal of the Republic of Algeria N°31 issued on Ramadan 02, 1438, corresponding to May 28, 2017.

⁶- **Executive Decree N° 13-424** issued on Safar 15, 1435, corresponding to December 18, 2013, amending and completing Executive Decree N° 05-495 issued on Thu al-Qiûdah 24, 1426, corresponding to December 26, 2005, pertaining to the energy audit of the most energy-consuming facilities. Official Journal of the Republic of Algeria N°65 issued on Safar 19, 1435, corresponding to December 22, 2013.



4- Executive Decree N° 15-69 issued on Rabi' Ethani 21, 1436, corresponding to February 11, 2015, determining the modalities of the certification of the renewable energy origin and the use of these certificates (amended and completed).¹

5- Executive Decree N° 15-319² issued on Rabi' Al-Awal 1st, 1437, corresponding to December 13, 2015, determining the modalities for managing the special allocation account N° 131-302 entitled "The National Fund for Renewable Energy and Cogeneration".

6- Ministerial Decision issued on Rabi' Ethani 2, 1435, corresponding to February 02, 2014, setting the guaranteed purchase prices and the corresponding conditions for application on electricity produced by the aeolian method.³

7- Ministerial Decision issued on Rabi' Ethani 2, 1435, corresponding to February 02, 2014, setting guaranteed purchase prices and the corresponding conditions for the application on electricity produced by the photoelectric method.⁴

In order to achieve a long-term vision for energy production and, or consumption under the new and renewable sources of energy, the Ministry of Energy Transition and Renewable Energy was established as a new policy. This is in accordance with Presidential Decree N° 20-163 issued on Thu al-Qi'dah 1st, 1441, corresponding to June 23, 2020, which implies the appointment of the government members (amended and completed). This is to emphasise Algeria's political will towards enforcing relevant laws and regulations and providing the appropriate atmosphere to boost the transition towards a sustainable energy system.

Afterwards, the executive Decree N° 20-322 issued on Rabi' Ethani 6, 1442, corresponding to November 22, 2020, came to determine the scope of competence of the Minister of Energy Transition and Renewable Energy⁵ along with the other departments for the same purposes.

The Energy Transition Minister shall, therefore, ensure a range of tasks mainly: the implementation of national policies and strategies in energy transition and renewable energy; the identification of the necessary legal, human, financial and physical means; suggesting an

¹ - **Executive Decree N°15-69** issued on Rabi' Ethani 21, 1436, corresponding to February 11, 2015, determining the modalities of the certification of the renewable energy origin and the use of these certificates. Official Journal of the Republic of Algeria N°09 issued on Rabi' Ethani 28, 1436, corresponding to February 18, 2015, amended and completed by the Executive Decree N°17-167 issued on Sha'aban 25, 1438 corresponding to May 22, 2017. Official Journal of the Republic of Algeria N°31 issued on Ramadan 02, 1438, corresponding to May 28, 2017.

² - **Executive Decree N° 11-423** issued on Rabi' Al-Awal 1st, 1437, corresponding to December 13, 2015, determining the modalities for managing the special allocation account N° 131-302 entitled "The National Fund for Renewable Energy and Cogeneration". Official Journal of the Republic of Algeria N° 68 issued on Rabi' Al-Awal 15, 1437, corresponding to December 27, 2015, amended and completed by the Executive Decree N°17-168 issued on Sha'aban 25, 1438, corresponding to May 22, 2017. Official Journal of the Republic of Algeria N°31 issued on Ramadan 02, 1438, corresponding to May 28, 2017.

³ - **Ministerial Decision** issued on Rabi' Ethani 2, 1435, corresponding to February 02, 2014, setting the guaranteed purchase prices and the corresponding conditions for application on electricity produced by the aeolian method. Official Journal of the Republic of Algeria N°23 issued on Jumada Ethania 23, 1435, corresponding to April 23, 2014.

⁴ - **Ministerial Decision** issued on Rabi' Ethani 2, 1435, corresponding to February 02, 2014, setting the guaranteed purchase prices and the corresponding conditions for the application on electricity produced by the photoelectric method. Official Journal of the Republic of Algeria N°23 issued on Jumada Ethania 23, 1435, corresponding to April 23, 2014.

⁵ - **Executive Decree N°20-322** issued on Rabi' Ethani 6, 1442, corresponding to November 22, 2020, determining the scope of competence of the Minister of Energy Transition and Renewable Energy. Official Journal of the Republic of Algeria N°69 issued on Rabi' Ethani 6, 1442, corresponding to November 22, 2020.



energy model based on the provision of energy and renewable energy; and a sustainable pattern of energy consumption and production. All of the aforementioned tasks shall be realised in collaboration with the relevant departments and in accordance with the governmental program.

Furthermore, the said Minister shall be charged with developing and placing value to renewable energy, developing and promoting energy control, and gradually substituting energy. As far as their areas of competence are concerned, the Minister shall prepare legislative and regulatory texts, exercise public authority under the legislative and regulatory bodies in force, and apply regulations and technical specifications.

To this end came the executive Decree N° 20-323 issued on Rabiû Ethani 6, 1442, corresponding to November 22, 2020, to define the different officers and sections of the central department of the Ministry of Energy Transition and Renewable Energy¹ as follows:

Secretary General: an officer assisted by two study directors, to whom is enclosed a mail registry and an internal security office.

Chief of the Office: an officer assisted by two study-and-synthesis clerks charged with a range of tasks, the most important of which is preparing and organising the minister's activities pertaining to the government's provided services and the relations with Parliament, consultative councils and bodies of the nation. They also follow up on the end outcomes of the ministry's activities, programs and major projects for the development of the same sector, the activities of research and technological vigilance and cooperation, and communication and relations with the media.

The same Decree includes the tasks of the Energy Transition Department, Energy Control Department, Department of Renewable Energy Connected with Electric Network, Department of Local Consumption and Development of Renewable Energy other than Electric Network, Department of Regulation, Communication and Cooperation, and General Management Department.

Second: The Relationship between Legal Security and Investment in Renewables and Energy Security

As the oil in Algeria is about to run out, the Algerian government, for the sake of increasing its capacity in energy, started exploring new resources for energy thanks to the new growth program. This could be achieved by the maximum exploitation of and investing in renewable energy resources. To this end, many alternative-energy projects were established, and conventions were concluded with foreign countries for the future promotion of latent renewable energy resources.²

In the same line of thought, legal security shall be stressed not only to mean protecting the legal positions, respecting and guaranteeing individual rights, but equally important, respecting the individuals' legitimate expectations. Legal security impact on the legislation and regulation of investment is manifested in the necessity of an official investment decision based on the significant principle of economic rationalisation as a first step. This can be

¹ - **Executive Decree N°20-323** issued on Rabiû Ethani 6, 1442, corresponding to November 22, 2020, defining the different officers and sections of the central department of the Ministry of Energy Transition and Renewable Energy. Official Journal of the Republic of Algeria N°69 issued on Rabiû Ethani 6, 1442, corresponding to November 22, 2020.

² - **Khirdja Hamza & Bilal Boudjemaâ**. "Investment and Development of Exploitation of Renewables". Economic Integration. Adrar University. Vol 05, N° 01. P 92.



achieved by using resources that offer maximum incomes, including lost revenues, through a methodological study of the feasibility and fruitfulness of the alternative.¹

The vital importance of legal security is best manifested in some spheres. First, by diminishing the risk foreign investors can be subject to while making the appropriate decision. That is why Algeria adopted a careful investment policy switching over to, so to speak, an attractive and exciting destination for business- persons via ensuring a relaxed atmosphere that may make foreign investors gain confidence in legislative economic systems. Second, legal security must go beyond the matter of building confidence to protecting that confidence. Moreover, market mechanisms cannot be effective without strict rules governing their activity in that law is traditionally deemed a prerequisite for creating any market.² Investments, therefore, necessitate an official investment decision as a first step.

In order to guarantee the protection of individuals' interests, legal security has been established and devoted as it is one of the fundamentals of economic activity. Consequently, legislators, on the one hand, commit themselves to preserving legal positions, building confidence, and being able to foresee future relationships. This is because legal security shall ensure a relaxed atmosphere and constitute a motivating element for investment based on the firm existing law and the state's sovereignty over the business. On the other hand, the foreign or national investors seek to find efficiency, speed, security and confidence in commercial transactions protected by existing laws in case of dispute³. In addition, before the investors begin their business, they look for guaranteeing circumstances that ensure legal security against any potential risks⁴.

It can be borne in mind that foreign investment shall pertain to the protection and guarantees offered by the state. Economists define the aforementioned principle of guarantee as the bilateral commitment of the state and the investor to react positively towards running a given business. From a legal standpoint, it is "the set of methods meant to ensure the investor with legal security that per se will be used to offer a guaranteed output"⁵.

There is no doubt that investors would not make any investment decision unless they are sure what will be happening in the future in that they tend to foresight the potential of market expansion. Many factors could impact the latter, such as the tax and governmental expenditures policy change, which may affect the economic situation. This reveals why forecasting plays a vital role in determining the investment direction⁶.

Ergo, Algeria devoted the principle of freedom of investment after the national referendum on November 01, 2020, under Article 61 of Presidential Decree N° 442-20 on the constitutional amendment stipulating that "Freedom of commerce and industry shall be guaranteed". To this end came the Investment Promotion Act N° 16-09 to create a favourable

¹- **Ben Saha Yaâkoub & Benlaghdar Mohamed**. "Legal Security on Face of Economic Regulation in Algeria". El-Bahith on Human and Social Sciences. Vol 03, 2020. P 264-265.

²- **Belkhir Mohamed Ayt Ōudiya**. *Idem*. P 48.

³- **Aloui Fatima**. *Idem*. P 150.

⁴- **Zerrouki Naouel**. "Legal Security Role in Devoting the Efficacy of Investment Guarantees in Algeria". Academic Journal of Legal Research. Vol 11, N°02. (Special issue), 2020. P 147-148.

⁵- **Jdaihi Zakia**. "The Mechanisms of Foreign Investment Encouragement in Algerian Law". Haouliat of University of Algiers1. Vol 33, N°01. March 2019. P 260.

⁶- **Khbir Kadour**. "Direct Foreign Investment in Algeria: Between Reform and Reality". Master Dissertation in Economic Sciences. Economic Analysis Specialty. Faculty of Economic and Management Sciences. Algiers University. 2002/2003. P 05.



atmosphere for investment (economic attractiveness) to ensure the foreign investor about their investment, including investment guarantees, be they objective (contractual and legal) or procedural (judicial and international arbitration)¹, namely:

1- Contractual Guarantees for Foreign Investment Encouragement

The free economy is what Algeria aims to achieve through the Euro-Mediterranean partnership in accordance with Article 54 thereof. In this regard, Algeria sought to promote the public sector's potential for encouraging private sector businesses to adapt to investment practices². In addition, the agreement of the African Continental Free Trade Area (AFCFTA) concluded in Kigali on March 21, 2018, was also used for the same objectives above.

This is because Algeria's needs to establish clear, transparent, predictable and mutually advantageous rules that govern trade in goods and services and the policy of competition, investment, and intellectual property among the states acting as parties to the agreement. The set of those rules would, in fact, help find solutions to the challenges of multiplicity and overlapping of the trade systems to achieve policy coherence, including those pertaining to the relationships with the parties³.

Such international and bilateral contracts that have so far been attracting countries' interests shall bring them foreign capital, thereby constituting the sole way to offer protection to investments as they ensure a trade-off between the contracting countries' conflicting interests.

International Center for Settlement of Investment Disputes (ICSID)

Formulated by the International Bank for Reconstruction and Development (IBRD), ICSID was established in accordance with the Washington Treaty on March 18, 1965, as the first international institution that provides guarantee mechanisms. It promotes settlement and arbitration of investment disputes between contracting countries and foreign investors through complying with the enforceable provisions of arbitration contained within the said convention⁴. The latter was later ratified by Algeria in accordance with the presidential Decree N° 95-346, then devoted by the Investment Promotion Act N° 16-09 that offered a

¹- **Sara Azzouz** "Foreign Investment Guarantees within Investment Promotion Act N° 16/09". Elbahith for Academic Studies. Vol 08, N°01, January 2021. P 583.

*Investment Promotion Act N° 16-09 issued on August 03rd, 2016. Official Journal of the Republic of Algeria N° 46, issued on August 03, 2016. Authenticated in accordance with the presidential Decree N° 05-159 issued on April 27, 2005, on the ratification of the Euro-Mediterranean Treaty for the foundation of a partnership between the European Union and Algeria. Official Journal of the Republic of Algeria N° 31 issued on April 30, 2005.

²- **Kassouri Fahima**. "The Role of the Central Institutions in Boosting the National Investment Potentials within the Investment Promotion Act N° 16-09". Journal of Judicial Assiduousness. Vol 12, N° 02. October 2019. P 10.

*Presidential Decree N° 21-133, issued on April 05, 2021, on the ratification of the Founding Convention of the African Continental Free Trade Area (AFCFTA) concluded in Kigali on March 21, 2018. Official Journal of the Republic of Algeria N° 36 issued on May 16, 2021.

³- **The sixth paragraph of the Founding Convention of the African Continental Free Trade Area (AFCFTA) preamble.**

⁴- **Sara Azzouz**. *Idem*. P 583-584.

*Presidential Decree N° 95-346, issued on October 30, 1995, on the ratification of the Convention on the Settlement of Investment Disputes between States and Nationals of other States.

*Presidential Decree N° 95-345, issued on October 30, 1995, on the ratification of the Convention on the Creation of the Multilateral Investment Guarantee Agency (MIGA). Official Journal of the Republic of Algeria, N° 66 issued on November 05, 1995).



sense of judicial guarantee and a possibility to settle investment disputes in accordance with international commercial arbitration rules.

The Multilateral Investment Guarantee Agency (MIGA): Algeria ratified MIGA convention under IBRD support in accordance with the presidential Decree N° 95-345. As MIGA treaty is committed to guaranteeing non-commercial (political) risks faced in host countries, such as seizure and attachment, capital transfer, wars, and disturbances, it undoubtedly constitutes a sufficient guarantee for foreign investors at the international level¹.

2- Legal Guarantees for Foreign Investment:

Legal guarantees account for the set of guarantees contained within local laws and ratified international conventions and treaties, in addition to the ability to gain complete access to maximum administrative documents and data protected by firm legislation to conduct a feasibility study. Legal guarantees could also be contained in the Investment Promotion Act mentioned above.

2.1- The access to the administrative documents and data

The existing laws in Algeria determine how to access the administrative documents and data in accordance with the presidential decree N° 88-131 on the relations between the administration and the citizens, in particular articles 10 and 11 thereof.

The investor is guaranteed access to documents and data under the executive Decree N° 06-356 pertaining to the scope of competencies, organisation and functioning of the National Agency for Investment Development, especially article three thereof. The said agency, under the supervision of the Minister of Investment Promotion, takes on the media, welcoming warmly foreign investors and giving them access to all necessary information. In addition, it takes on collecting all the necessary documents that allow the business community to better familiarise themselves with the legislation and regulations pertaining to investment even sectorial ones, process, and publish them through the most influential media, including exchanging information and ensuring the publication of the received ones².

2-2- Legislative Firmness Requirement

It constitutes a vital provision in the investment contract constituting a guarantee from the risks of unstable legislation. It provides for that the contract is legally enforceable according to the current laws irrespective of their later amendment, which reveals that the legislature has good intentions to bring investments³.

Furthermore, the protection of acquired rights in Algeria is considered in the legislation, particularly in the Investment Promotion Act N° 16-09; article 35. The latter guarantees the investor's acquired rights regarding the advantages and other benefited rights obtained from previously issued versions of laws and regulations until their expiry. The act above also guarantees fair and equitable foreign-local investor treatment and the non-expropriation of property that has particular importance as contained in the first paragraph of article 50 of the

¹ - Jdaini Zakia. *Idem*. P 263-264.

² - Belkhir Mohamed Ayt Oudiya. "A research in the Economical Dimensions of Legal Security Principle". A communication in the Seventh National Conference on Legal Security in Algeria. Faculty of Law and Political Sciences, University of Fares Yahia, Medea. 11-12 November 2014. P 06.

³ - Djrifili Mohamed. "The Extent of the Efficacy of the Legal Guarantees to Boost Foreign Investment in Algerian Legislation". *Journal of Assiduousness in Legal and Economic Studies*. Vol 10, N° 01. 2021. P 232-324.



last constitutional amendment: “any foreigner legally present in the national territory shall enjoy legal protection of his person and property”.

In this vein, as Algeria was convinced that keeping pace with the developments taking place in international economic relations in general and achieving development in particular, it established a set of principles that conform to the rules that govern international investment law even though the desired goals were not achieved, thereby a lack of international investments¹.

As the development pertains to investment, the latter should have an influential role in reducing unemployment and poverty in society and raising the standard of living for citizens. That is why developing countries work on providing the appropriate atmosphere, such as legal and judicial securities to attract investments even though national and foreign investments run the risk of being unattractive for the shortage of legal security within legal and institutional systems².

Although legislative modification shall be legitimate as it keeps the main principles such as justice and equality, the foreign investor may lose confidence and recourse to other countries that keep firmness to their legislations³.

Undoubtedly, the principle of legal security and investment act in a complementary relationship within the renewable energy framework. Investing in renewables shall not be implemented without the building bricks, so to speak, of law based on the protection of acquired rights, legitimate forecasting and ensuring legal stability in addition to the contractual and legal guarantees intending to bring investors in renewable energy.

The analysis of legal security and energy security in the first axis reveals that both are directly interrelated, so energy security shall be unperceivable without legal security on objective and subjective dimensions. The first dimension implies existing and grasped laws that offer physical and intellectual access, whereas the second dimension entails the predictability and the relative stability of legal positions via the non-retroactivity of laws and the protection of acquired rights.

Conclusion

To conclude, switching to renewable and new energy seems necessary owing to the oncoming depletion of non-renewables. Ergo, the daunting challenge for Algeria is to adopt a relevant strategy that might ensure meeting the increasing energy needs. This can be achieved via exploiting non-costing, non-depleting, and environmentally friendly alternatives other than the hazardous shale gas that has negative impacts at environmental and financial levels and nuclear energy, which advanced countries are seeking to get rid of.

The absence of a developmental policy based on an energy strategy brought about an insignificant investment in renewables regardless of the existing laws and regulations. This situation led to the belief that, on the one hand, legal security shall be of central importance in that it contributes to bringing investments in renewables as a future alternative, a guarantee to

¹ - **Kermich Nourelhouda & Mekkaoui Sidi Mohamed**. “Legal Security in Investment in Algeria”. Arsad Journal of Economic and Administrative Studies. Vol 03, N°01, June 2020. P 69.

² - **Roukia Aâouchria**. “The Non-legal-security and its Impact on Development. Algerian Journal of Humanitarian Security N°01, January 2016. P 23-32.

³ - **Hennan Ali**. “Legal Security as an Attractive Value to Foreign Investment in Algeria”. Doctoral Thesis. Ghardaia University, 2019/2020. P 131.



investors and capital providers. On the other hand, economic feasibility must be taken into account when developing policies to achieve energy security.

Notwithstanding, legal security remains an insufficient guarantee to achieve alternatives other than traditional energy because of the absence of political will and the need to adopt wise decision-making such as the nationalisation of fossil fuels to align with the post-oil world policy as of 2040.

As such, we shall suggest these recommendations to realise the best investments and exploitation of renewables:

- The need to achieve the legal security requirements, as it constitutes a value for the legal environment and a competitive factor in attracting investment in renewables. This is because of the investor's expectations to work within a stable and precise legislative framework and their need for the government to commit themselves to the provided body of data in that attracting foreign investment is no longer related to the exclusive tangible and fiscal incentives offered.
- Placing crucial importance to scientific research to achieve an energy transition and renewables development.
- Boosting renewable and new energy projects and investments and emphasising the environment.
- Not only making investors and companies aware of the fundamental importance of exploiting renewable energy but also all sections of society in order to best achieve energy security.

References

- **Aloui Fatima.** "The Role of Legal Security in Promoting Investments in Algeria" Economic Journal of El-Bachair. N°04. April, 2016.
- **ZOUAIMIA Rachid.** "A quest for Legal Security in Foreign Investment". Academic Journal of Legal Research. Vol 12, N°01 (Special Issue). 2021. p. 631.
- **Äouatef Moumen.** "Energy Security in Algeria: Conditions and Challenges". Algerian Review of Security and Development. Vol 10, N° 03. July 2021.
- **Nabil Ben Hamza.** "Energy Security in Algeria, a Theoretical Etymological Study". Algerian Review of Security and Development. Vol 10 N° 03. July 2021.
- **The Organization of Petroleum Exporting Countries (OPEC).** Annual Report 33, 2007.
- **Houda Badrouni.** "The Investment and the Role of Renewable Energy in Achieving the Duality of Environment Protection and Sustainable Development in Algeria". Riyeda Journal of Business Economies. Vol 06, N°03. January 2020.
- **Act N° 04-09** pertaining to Renewable Energy Promotion within Sustainable Development Policy issued on Jumada Ethania 27, 1425 corresponding to August 14, 2004. Official Journal of the Republic of Algeria N° 52 issued on August 18, 2004.
- **Ismail Djabourbi.** "The Basics and Elements of Legal Security Principle" Ettahaoulat Journal N° June 02 2018.
- **Abdelmadjid Ghmaidja.** "The Legal Security Principle and the Necessity for Judicial Security". Symposium of Hasniya Friendly Association of Judges; Conference 13 of the African Community of International Union of Judges on March 28, 2008. Casablanca, Morocco. (Presentation).
- **Belkhir Mohamed Ayt Öudiya.** Legal Security and its Principles in Administrative Law". Dar Elkhaldounia, Kouba, Algiers. 2018.



- **Ahmed Fat'hi Serour.** Criminal-constitutional Law “ Constitutional Legality in Penal Code, Constitutional Legality in Criminal Procedures Code” Dar E-Shorouk, Cairo, Egypt, 3rd version 2004, P85.
- **Mohamed Mounir Hassani.** “The *Conseil Constitutionnel* Mechanisms to Achieve Legal Security. A Presentation in the National Conference of Legal Security. Faculty of Law and Science.
- **Abdellah Laâouidji,** Legal Security and the Constraints to its Realisation in Algeria. A Presentation in the Online National Conference of the Impact Legal Security on Developing Investment. February 04, 2021. Faculty of Law and Political Sciences. Batna University1, Algeria.
- **Cherneva Boyka Lvaylova.** Legal Security as a Principle in Lawmaking, G.S.I.J .N°2(14), University of Economics and Innovation in Lublin, Poland. 2017.
- **Kamel FENNICHE.** “*Conseil d’Etat* Jurisprudence and Legal Security Concept R.C.C.” N°13-2020, (Specialized half-year journal)- Studies (In French).
- **Pizzorusso Alessandro.** Passaglia Paolo. Italie. In: A.I.J.C, 15-1999; 2000, Round-table, Constitution and Legal Security. Constitutional Law, Community Law and European Law.
- **Belhamzi Fahima.** “Legal Security of Rights and Constitutional Liberties”. Doctoral Thesis of Public Law. Faculty of Law and Political Sciences. University of Ahmed Ben Badis, 2017/2018. Algeria.
- **Djellab Abdelkader.** “Legal Security Guarantees in Administrative Activities”. Doctoral Thesis in Public Law. Faculty of Law and Political Sciences. University of Ibn Khaldoun, Tiaret. 2018/2019. Algeria.
- **Salah Ferkous.** “History of Legal and Islamic Systems”. Dar Elôouloum. Annaba, Algeria. 2001.
- **Abderrahmen Ellamtouni.** “Judicial Assiduousness and Legal Security”. Judicial Assistant Journal. Higher Institution of Judiciary, Moroccan Kingdom. Vol 46, May, 2014.
- **Djeddi Ouafa.** “The Role of Judiciary in the Realization of Legal Security: Between Independency and the Authority’s Requirements”. Anthology of: Legal Security and Achieving Development. Scientific Publications of the Laboratory of Law, Family, and Administrative Development Studies. Faculty of Law and Political Sciences. University of Mohamed Boudiaf, September 2019.
- **Abdelmadjif Lakhdari & Fatima Ben Djeddou.** “Legal Security and Judicial Security; A Complementary Relationship”. Eshihab Journal. Islamic Sciences Institution. Elouadi University, Algeria. Vol 04, N° 02, June 2018.
- **Articles** (16), (25), and (26) of the constitutional amendment of Algeria, 2020.
- **Presidential Decree N° 83-131** issued on Jumada Eloula 06, 1403, corresponding to February 19, 1983, on the ratification of the convention on developing new and renewable energy, with the government of the Kingdom of Belgium, concluded in Algiers on April 08, 1982. Official Journal of the Republic of Algeria N° 08 issued on Jumada Eloula 09, 1403, corresponding to February 22, 1983.
- **Environmental Protection Act N° 83-03** issued on Rabiû Ethani 02, 1419, corresponding to February 05, 1983. Official Journal of the Republic of Algeria N° 06 issued on Rabiû Ethani 25, 1419, corresponding to February 08, 1983.
- **Act N° 98-11** pertaining to the orientational law and quinquennial projection program on scientific research and technological development 1998-200230 issued on Rabiû Ethani 29, 1419, corresponding to August 22, 1998. Official Journal of the Republic of Algeria N° 62 issued on Jumada Eloula 02, 1419, corresponding to August 24, 1998. Amended by Act 08-05 issued on February 23, 2008. Official Journal of the Republic of Algeria N° 10 issued on February 27, 2008.



- **Energy Control Act N° 09-99** issued on Rabiû Ethani 15, 1420, corresponding to July 28, 1999. Official Journal of the Republic of Algeria N° 51 issued on Rabiû Ethani 15, 1420, corresponding to August 02, 1999.
- **Act N° 01-20** pertaining to the sustainable development of territory planning issued on Ramadan 27, 1422, corresponding to December 12, 2001. Official Journal of the Republic of Algeria N° 77 issued on Ramadan 27, 1422, corresponding to December 18, 2001.
- **Act N° 04-09** on promoting renewable energy within sustainable development framework issued on Jumada Ethania 27, 1425 corresponding to August 14, 2004. Official Journal of the Republic of Algeria N° 52 issued on August 18, 2004.
- **Act N° 02-01** on electricity and gas distribution by ducts, issued on February 05, 2002. Official Journal of the Republic of Algeria N° 08 issued on Thu-al-Qûdah 23, 1422, corresponding to February 06, 2002.
- **Act N° 11-11** on the complementary finance law for 2011 issued on Shaâban 16, 1432, corresponding to July 18, 2011. Official Journal of the Republic of Algeria N° 40 issued on Shaâban 18, 1432, corresponding to July 20, 2011.
- **Executive Decree n ° 11-423** issued on Muharram 13, 1433, corresponding to December 08, 2011, determining the modalities for managing the special allocation account N° 131-302 entitled "The National Fund for Renewable Energy and Cogeneration". Official Journal of the Republic of Algeria N° 68 issued on Muharram 19, 1433, corresponding to December 14, 2011.
- **Executive Decree N°13-218** issued on Shaâban 9, 1434, corresponding to June 18, 2013, determining the conditions for granting bonuses for the costs of diversifying electricity production. Official Journal of the Republic of Algeria N°33 issued on Shaâban 17, 1434, corresponding to June 26, 2013, amended and completed by the Executive Decree N°17-166 issued on Shaâban 25, 1438, corresponding to May 22, 2017. Official Journal of the Republic of Algeria N°31 issued on Ramadan 02, 1438, corresponding to May 28, 2017.
- **Executive Decree N° 13-424** issued on Safar 15, 1435, corresponding to December 18, 2013, amending and completing Executive Decree N° 05-495 issued on Thu al-Qûdah 24, 1426, corresponding to December 26, 2005, pertaining to the energy audit of the most energy-consuming facilities. Official Journal of the Republic of Algeria N°65 issued on Safar 19, 1435, corresponding to December 22, 2013.
- **Executive Decree N°15-69** issued on Rabiû Ethani 21, 1436, corresponding to February 11, 2015, determining the modalities of the certification of the renewable energy origin and the use of these certificates. Official Journal of the Republic of Algeria N°09 issued on Rabiû Ethani 28, 1436, corresponding to February 18, 2015, amended and completed by the Executive Decree N°17-167 issued on Shaâban 25, 1438 corresponding to May 22, 2017. Official Journal of the Republic of Algeria N°31 issued on Ramadan 02, 1438, corresponding to May 28, 2017.
- **Executive Decree N° 11-423** issued on Rabiû Al-Awal 1st, 1437, corresponding to December 13, 2015, determining the modalities for managing the special allocation account N° 131-302 entitled "The National Fund for Renewable Energy and Cogeneration". Official Journal of the Republic of Algeria N° 68 issued on Rabiû Al-Awal 15, 1437, corresponding to December 27, 2015, amended and completed by the Executive Decree N°17-168 issued on Shaâban 25, 1438, corresponding to May 22, 2017. Official Journal of the Republic of Algeria N°31 issued on Ramadan 02, 1438, corresponding to May 28, 2017.
- **Ministerial Decision** issued on Rabiû Ethani 2, 1435, corresponding to February 02, 2014, setting the guaranteed purchase prices and the corresponding conditions for application on electricity produced by the aeolian method. Official Journal of the Republic of Algeria N°23 issued on Jumada Ethania 23, 1435, corresponding to April 23, 2014.

- **Ministerial Decision** issued on Rabiû Ethani 2, 1435, corresponding to February 02, 2014, setting the guaranteed purchase prices and the corresponding conditions for the application on electricity produced by the photoelectric method. Official Journal of the Republic of Algeria N°23 issued on Jumada Ethania 23, 1435, corresponding to April 23, 2014.
- **Executive Decree N°20-322** issued on Rabiû Ethani 6, 1442, corresponding to November 22, 2020, determining the scope of competence of the Minister of Energy Transition and Renewable Energy. Official Journal of the Republic of Algeria N°69 issued on Rabiû Ethani 6, 1442, corresponding to November 22, 2020.
- **Executive Decree N°20-323** issued on Rabiû Ethani 6, 1442, corresponding to November 22, 2020, defining the different officers and sections of the central department of the Ministry of Energy Transition and Renewable Energy. Official Journal of the Republic of Algeria N°69 issued on Rabiû Ethani 6, 1442, corresponding to November 22, 2020.
- **Khirdja Hamza & Bilal Boudjemaâ**. "Investment and Development of Exploitation of Renewables". Economic Integration. Adrar University. Vol 05, N° 01.
- **Ben Saha Yaâkoub & Benlaghdar Mohamed**. "Legal Security on Face of Economic Regulation in Algeria". El-Bahith on Human and Social Sciences. Vol 03, 2020.
- **Zerrouki Naouel**. "Legal Security Role in Devoting the Efficacy of Investment Guarantees in Algeria". Academic Journal of Legal Research. Vol 11, N°02. (Special issue), 2020.
- **Jdaine Zakia**. "The Mechanisms of Foreign Investment Encouragement in Algerian Law". Haouliat of University of Algiers1. Vol 33, N°01. March 2019.
- **Khir Kadour**. "Direct Foreign Investment in Algeria: Between Reform and Reality". Master Dissertation in Economic Sciences. Economic Analysis Specialty. Faculty of Economic and Management Sciences. Algiers University, 2002/2003.
- **Sara Azzouz** "Foreign Investment Guarantees within Investment Promotion Act N° 16/09". Elbahith for Academic Studies. Vol 08, N°01, January 2021.
- *Investment Promotion Act N° 16-09 issued on August 03rd, 2016. Official Journal of the Republic of Algeria N° 46, issued on August 03, 2016. Authenticated in accordance with the presidential Decree N° 05-159 issued on April 27, 2005, on the ratification of the Euro-Mediterranean Treaty for the foundation of a partnership between the European Union and Algeria. Official Journal of the Republic of Algeria N° 31 issued on April 30, 2005.
- **Kassouri Fahima**. "The Role of the Central Institutions in Boosting the National Investment Potentials within the Investment Promotion Act N° 16-09". Journal of Judicial Assiduousness. Vol 12, N° 02. October 2019.
- *Presidential Decree N° 21-133, issued on April 05, 2021, on the ratification of the Founding Convention of the African Continental Free Trade Area (AFCFTA) concluded in Kigali on March 21, 2018. Official Journal of the Republic of Algeria N° 36 issued on May 16, 2021.
- **The sixth paragraph of the Founding Convention of the African Continental Free Trade Area (AFCFTA) preamble**.
- *Presidential Decree N° 95-346, issued on October 30, 1995, on the ratification of the Convention on the Settlement of Investment Disputes between States and Nationals of other States.
- *Presidential Decree N° 95-345, issued on October 30, 1995, on the ratification of the Convention on the Creation of the Multilateral Investment Guarantee Agency (MIGA). Official Journal of the Republic of Algeria, N° 66 issued on November 05, 1995).
- **Belkhir Mohamed Ayt Öudiya**. "A research in the Economical Dimensions of Legal Security Principle". A communication in the Seventh National Conference on Legal Security in Algeria. Faculty of Law and Political Sciences, University of Fares Yahia, Medea. 11-12 November 2014.



- **Djrfili Mohamed.** “The Extent of the Efficacy of the Legal Guarantees to Boost Foreign Investment in Algerian Legislation”. Journal of Assiduusness in Legal and Economic Studies. Vol 10, N° 01. 2021.
- **Kermich Nourelhouda & Mekkaoui Sidi Mohamed.** “Legal Security in Investment in Algeria”. Arsad Journal of Economic and Administrative Studies. Vol 03, N°01, June 2020.
- **Roukia Aâouchria.** “The Non-legal-security and its Impact on Development. Algerian Journal of Humanitarian Security N°01, January 2016.
- **Hennan Ali.** “Legal Security as an Attractive Value to Foreign Investment in Algeria”. Doctoral Thesis. Ghardaia University, 2019/2020.