

Institutional Framework Reform Under Law 22-18 Relating To Investment Promotion

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ARTICLE INFO ABSTRACT

The enactment of a new investment legislation necessitates concurrent adjustments and enhancements to the institutional framework governing the investment procedures, given the significant role that the host country's institutional system plays in attracting investment. The more its procedures are characterized by ease, clarity, and the absence of administrative complications, this will attract the potential investor and vice versa.

Globalization has imposed new challenges necessitating the development of competitive capabilities essential for seamless integration into the global economy. This entails the establishment of robust and efficient institutions geared towards fostering development. Therefore, the new Investment Law 22-18 includes in its provision's reforms to the institutional framework in charge of the investment process through restructuring it with the aim of raising the level of efficiency of the agencies in charge. By investing, developing and keeping pace with digital transformation in order to reduce administrative restrictions and enhance cooperation between departments active in organizing the investment process, to keep pace with local and international changes to contribute to economic integration and in a manner consistent with investment policy to achieve the requirements of sustainable development.

Key words: Institutional reform, institutional framework, digital transformation, sustainable development.

Introduction

The adoption of a new investment law should be accompanied by processes of adapting and reforming the institutional framework regulating the investment process. This is because the institutional system in the host country plays a crucial role in attracting foreign investment flows. The more streamlined and transparent the procedures are, free from bureaucratic complications, the more likely they are to attract investors, and vice versa.

Hence, Law 22-18 on investment includes provisions for reforming the institutional framework and its digitization to simplify administrative procedures in order to reduce obstacles encountered by investors and aid them in completing the required procedures for establishing and efficiently managing investment projects. These measures aim to conserve effort, time, and financial resources, consequently lowering expenses that are taken into account by investors.

Furthermore, there are new challenges imposed by globalization that necessitate the development of necessary competitive capacities to facilitate economic integration. These challenges are embodied in the presence of strong and effective institutions to achieve growth, development, and support structural changes in any country, which would accelerate the process of reaching sustainable development goals.

As for Algeria, previous policies of reform and economic openness were deemed insufficient to achieve the desired development. This inadequacy is attributed to the failure of investment-related institutions and bodies to fulfill their roles in regulating, attracting, managing, and monitoring investment projects. Consequently, the absence or weakness of these necessary institutions not only jeopardizes the success of investment policy but also exposes the state to economic problems and crises. Hence, law 22-18 on investment introduced structural reforms, including the transfer and enhancement of powers from one authority to another. Additionally, it

singled out owners of large-scale and foreign projects through a unified approach. Furthermore, it established a new digital mechanism aimed at facilitating procedures and reducing investment-related challenges.

The problem under examination lies in assessing the efforts of the Algerian state regarding institutional reform brought about by law 22-18 on investment and its capacity to address the challenges of fulfilling its designated role. In addition, it involves examining the institutional challenges that arise among development partners within a coordinated and integrated institutional framework.

As a result, the major emphasis of our research is on the following question: **to what extent has the newly implemented institutional reform policy in law 22-18 on investment succeeded in attracting and promoting investment?**

To solve this topic, we divided it into two primary sections:

Section one: Concept of institutional reform.

Section two: reform of investment mechanisms in Law 22-18.

First. Concept of institutional reform.

The institutional environment has become very important as one of the variables of international competitiveness. Globalization has generated the challenges of building the necessary institutional capacities to facilitate the economic integration of countries, as the policies of reform and economic openness were not sufficient to establish the institutions necessary for the success of such policies without ensuring that these countries have the institutional frameworks and mechanisms to implement these policies, and the absence or weakness of the necessary institutions not only fails to ensure the success of the desired policies but also exposes the countries concerned to economic problems and crises.¹ Therefore, in this section, we review the definition of institutional reform that countries undertake to succeed in their economic policies in general and investment policies in particular. Subsequently, we highlight the importance of this reform and its role in attracting investments, while also elucidating the reasons why countries resort to this type of reform and aligning it with the entities responsible for the investment process to achieve the requirements of economic development.

1. Definition of Institutional Reform

Before defining institutional reform, it is necessary to define the institutional framework specific to investment. By understanding it, we can identify the shortcomings of this framework in meeting the requirements for addressing the issues it deals with. Thus, the institutional framework is defined as “the framework that enables the government to confront its legal commitments regarding international trade systems by removing all obstacles and restrictions to trade and investment and improving transparency.”²

Institutional reform is defined as “institutional change aimed at enhancing the role of institutions, leading to improved investor service performance and thereby enhancing the quality, productivity, and efficiency of investments and projects.”³ This is what the Algerian state seeks to achieve through structural changes and innovations in the new investment law.

The institutional system refers to “the administrative system and agencies responsible for managing and regulating investment in the state, as well as investment information systems.” The clearer the procedures of the system and the absence of bureaucratic complications, the more it attracts investment, and vice versa.⁴

This means that institutional reform aims to enhance transparency and reduce administrative constraints in order to facilitate the management of investment projects.

2. The Significance of Institutional Reform

The theoretical evolution of development has led to the understanding that the failure of some developing countries to achieve genuine development, despite available resources and implemented reforms, is the result of several challenges they face, including the lack of genuine institutional reform that aligns with the economic reforms adopted by these countries.⁵ Therefore, Algeria, with the aim of achieving the requirements of economic development, seeks to keep pace with modern trends that support the modernization and development of the agencies responsible for the investment process, especially as, for the first time, technology is being relied upon to regulate investment issues.

Furthermore, institutional reform from an administrative perspective aims primarily to rationalize the decision-making process within the institution, clearly define objectives, objectively assess facts, make

¹ Majda Shelbi, *International Trends and Institutional Framework in Foreign Direct Investments*, Dar Al-Nahda Al-Arabiya, Cairo, 2013, p. 163.

² Majda Shelbi, *op. cit.* p. 25.

³ Majda Shelbi, *op. cit.* p. 164.

⁴ Zyad Faical Habib Al-Khayzaran, *The Advantages and Legislative Guarantees of Foreign Investment in Arab Investment Laws*, Dar Al-Nahda Al-Arabiya, Cairo, 2014, p. 217.

⁵ Asma Azat, *Institutional Reform and Governance as Key Pillars for Building the New Egyptian State*, *International Journal of Public Policies in Egypt*, Volume 02, Issue 03, July 2023, p. 93.

decisions based on accurate information at the appropriate time, and adapt to the developments in its environment and surroundings, thus progressing towards achieving its goals.⁶

The importance of institutional framework reform can be summarized as follows:

- Improving the promotion of investment opportunities by easing restrictions on both establishment and project initiation.
- Reducing the cost of investment projects, as excessive restrictions and procedures increase costs, hindering investment influx.
- Achieving higher levels of investment due to increased transparency and efficiency in performance.
- Preventing inflation, as reducing administrative constraints directly affects business costs, contributing to price reductions.
- Stimulating economic competitiveness, as increased competitiveness strengthens the institutional framework, leading to enhanced economic development.⁷

Despite the complexity of the reform process and its requirement for significant time and resources to achieve comprehensive reform in investment process agencies, the Algerian legislature has made considerable efforts to develop and update them through various investment laws to align with the requirements of sustainable development.

3. Reasons for Institutional Reform

The new institutional economics emphasizes the necessity of strong and efficient institutions to achieve growth, development, and support structural changes in any country, which accelerates the process of reaching sustainable development goals.⁸

Therefore, the host country for investment establishes governmental agencies and bodies whose mission is to plan, regulate, promote, and market investment projects. The administrative structure and organization vary from one country to another for several reasons, including:

- The degree of decentralization applied at the local and international levels.
- Delegation of authority within the National Investment Authority.
- Degree of centralization in decision-making.
- The role of the authority in coordinating between the investor and the ministry responsible for investment, as well as providing suggestions for investment promotion.⁹

Regarding the reasons for institutional reform of investment agencies in Algeria, what the Algerian legislature has offered in previous investment laws in terms of guarantees, benefits, and incentives for investors did not contribute to attracting the desired level of foreign direct investment. Perhaps the most significant reason is the institutional framework, which plays a crucial role in realizing Algeria's commitments in its investment laws by providing substantive guarantees and necessitating their reinforcement with procedural guarantees. Both aspects contribute to regulating, facilitating, and attracting investments. Additionally, administrative factors play a vital role in improving and creating an investment-friendly climate. Furthermore, administrative corruption and its negative impact on the investment climate are significant reasons prompting the Algerian legislature to undertake institutional reform. Therefore, one of the most important reasons for the Algerian legislature to resort to institutional reform is combating administrative corruption and working towards improving the investment climate and business environment.

3.1. Administrative Factors as an Element of the Investment Climate:

It is well known that investment elements consist of various factors and conditions that function collectively and interactively to create the investment environment. The investment climate is defined as “the overall conditions and circumstances comprising the environment in which the investment process takes place, and these conditions are influenced by political, security, legal, economic, administrative, and cultural factors, which can have a positive or negative impact on the success of investment projects.”¹⁰

Through definition, the role of administrative factors in attracting investments, especially foreign ones, becomes apparent. Their efficiency and ability to align with investor requirements, processes, and investment policy determine their capacity to attract foreign investors, and vice versa. Additionally, the presence of bureaucracy sends a signal to investors indicating weak rule of law in that country and the frailty of institutions based on the investment process, thus weakening the guarantees granted to investors, making investment in these countries a risk with unpredictable consequences.

⁶ Belghou Soumya, *The Reality of Institutional Reform within the Economic Reform Program in Algeria*, North Africa Journal, Issue 10, January 2012, p. 23.

⁷ Majda Shelbi, op. cit. p. 26.

⁸ Asma Azat op. cit. p. 90.

⁹ Naima Ouail, *The Reality of Foreign Direct Investment in Light of Economic Changes in Algeria*, Legal Library AlWafa, First Edition, 2016, p. 58.

¹⁰ Muawia Al-Haddad Muawia Othman Al-Haddad, *The Legal Foundations of Attracting Foreign Investment*, Dar Eljamia Eljadida Publishing House, Alexandria, 2015, p. 81.

3.2. The Impact of Corruption on the Investment Climate:

The investment climate plays a significant role in attracting foreign direct investment. The economic, social, and institutional conditions of any country have a profound impact on investment flows. Conversely, corruption is among the key factors considered by foreign investors when deciding to invest in a foreign country. Corruption adversely affects the investment climate due to its association with various administrative aspects, creating a broad environment of illicit activities. Consequently, investors tend to refrain from investing their funds in countries where the investment climate is hindered by such factors.¹¹

However, if the Algerian state wishes to benefit from investment, it must activate the values of governance and the issue of employees responsible for the investment process in all aspects, through the rule of law and legitimacy in transactions and the fight against corruption. These are all matters that contribute to improving the overall investment climate, creating a conducive business environment, and combating all forms of corrupt practices in their various types. This is achieved by enhancing the efficiency of the state administrative apparatus, improving the level of public services, intensifying supervision and accountability, all aimed at reducing and combating corruption, especially in light of the current equation where the spread of corruption leads investors to include bribery and commissions payments in project costs, thereby increasing costs and reducing return on investment. Therefore, activating the values of governance has a direct impact on foreign direct investment flows and economic growth, thereby achieving economic development.¹²

International experiences have confirmed that not giving sufficient importance to the establishment and role of institutions in reform policy weakens the process of attracting investments. In the Middle East and North Africa region, there has recently been an increase in the volume of foreign direct investments. However, it still represents less than 2% of the total global flows, characterized by institutional weakness and complex, costly regulations that hinder the development of investment activities and the establishment of projects.¹³

In conclusion, it can be said that the aim of reforming the institutional framework is to enhance the efficiency of the agencies responsible for investment, to develop, modernize, and update them to keep pace with local and international changes, thereby contributing to economic integration and aligning with investment policy to achieve the requirements of sustainable development.

Second. Reforming investment agencies in Law 22-18.

In line with modern trends that rely on the institutional framework for the success of investment policy, the new Investment Law 22-18 introduced structural reforms involving the transfer of competencies and the enhancement of powers from one authority to another. Additionally, it singled out major domestic and foreign investors with a unified approach. Moreover, it introduced a new digital mechanism aimed at facilitating procedures and reducing investment-related obstacles.

1. Reforming traditional agencies.

As part of improving the institutional framework responsible for the investment process, the legislator introduced amendments affecting the composition and competencies of each authority, aiming to enhance services provided to investors. This was achieved by defining tasks and responsibilities to improve the legal aspects of decision-making, enabling swift resolution of issues and ensuring proper management. According to Article 16 of Investment Law 22-18, there are two agencies tasked with monitoring and accompanying the investment process. These agencies are:

- National Investment Council.
- The National Committee for Investment-Related Appeals and its Operation.
- Algerian Investment Promotion Agency.

In addition, there is the authority to which the investor resorts in case they do not receive the rights, benefits, and guarantees promised to them by the state. This is stipulated in Article 11 of Investment Law 22-18, and it is embodied in the National High Committee for Investment-Related Appeals.

1.1. National Investment Council

The Council serves as the principal body responsible for investment policy in Algeria, upon which the state relies for proposing investment strategies. Therefore, we examine its establishment, composition, decision-making authority, as well as its operational procedures, with a focus on its functions.

1.1.1. Establishment, Composition, and Operational Procedures of the Council:

We explore how the legislator established the National Investment Council, its composition, and how it operates.

A) Establishment of the Council: Order 01-03 of the 20th of August 2001 relating to the development of investments established the National Investment Council, assigning it numerous tasks in the field of

¹¹ Djamel Boussetta: Corruption and its Impact on Attracting Foreign Direct Investment to Algeria, Research Journal for Academic Studies, Volume 07, Issue 02, Research Journal for Academic Studies, 2020, p. 1210.

¹² Djamel Boussetta op. cit. p. 1219.

¹³ Majda Shelbi, op. cit. p. 164.

investment promotion and creating conducive conditions to facilitate investments. This council was established under Article 18, which stated: "A National Investment Council shall be established within the Ministry responsible for investment promotion, referred to herein as the 'Council', and shall be under the authority and chairmanship of the Prime Minister. The Council shall be responsible for matters related to investment strategy, investment support policy, approval of agreements provided for in Article 12, and in general, all matters related to the implementation of the provisions of this order." The Council underwent changes in composition and tasks in amendments introduced by Law 16-09 and Law 22-18.

B) Composition of the National Investment Council: The National Council is composed of members representing ministries concerned with the investment process.¹⁴

The Prime Minister chairs the Council, with membership including ministers representing the following sectors: Interior and Local Government, Finance, Energy and Mines, Industry, Investment, Trade, Agriculture, Tourism, Labor and Employment, and Small and Medium Enterprises.

The Council's composition comprises crucial and strategic sectors, along with priority sectors that the state aims to stimulate for development, especially in industry, agriculture, and tourism. It is noteworthy that the Minister of Small and Medium Enterprises is included, perhaps indicating a prioritization of this type of institution, particularly as startups are among the most crucial institutions the state will focus on for economic development. Furthermore, during Council meetings, the Chairman of the Agency's Board of Directors and its Director-General attend. Additionally, aside from the aforementioned composition, the Council has the authority to dispense with any individual deemed unnecessary, regardless of their competence or experience in the investment field.

C) Operational Procedures of the Council: According to Articles 04 and 05 of Decree 22-297, the Minister responsible for investment assumes the secretariat of the Council. The Council convenes at least once every six months and may meet as needed upon the call of its chair. All information and reports regarding investment are placed at the disposal of the Council, and its proceedings culminate in opinions and recommendations. The Council's proceedings and recommendations are communicated to the relevant administrations.

1.1.2. Tasks of the National Investment Council:

The Council's tasks include proposing the state's investment strategy, ensuring its comprehensive coherence, and evaluating its implementation.¹⁵ This role is now more defined, with fewer responsibilities compared to those under previous laws. The portfolio of projects, previously under its jurisdiction, has been transferred to the Algerian Investment Promotion Agency, allowing the Council to focus on its lofty tasks of formulating the state's investment strategy and policy.¹⁶

A) Proposal of Investment Strategy: The term "strategy" refers to the plan for achieving future objectives. Therefore, this strategy must align with the state's aspirations behind the investment process, which ultimately aim at achieving sustainable economic development. Furthermore, the Council, within the framework of proposing the state's strategy, oversees the implementation of the state's investment policy, which is tailored to the requirements and ambitions of the economic state.

B) Definition of Investment Strategy: If strategy entails "setting long-term goals or selecting a course of action and allocating necessary resources to achieve these goals," then investment strategy is defined as "setting long-term goals to gain competitive advantages."¹⁷ Therefore, future investment expectations necessitate the development of robust investment strategies and a shift towards long-term investments, contributing to the establishment and shaping of the investment climate.¹⁸

For the investment strategy in Algeria to succeed, it is imperative to specify the type and quantity of resources that must be invested in the long term to gain competitive advantages. Among these resources, perhaps the most important and enduring is investment in the human element through investment in the knowledge economy.

C) The Importance of Strategy: The investment strategy can be understood through the trends and objectives of investment policy:¹⁹

- Identifying internal and external factors leading to significant changes in the investment process.

¹⁴ Article 03 of Executive Decree No. 22-297 of September 8, 2022, establishing the composition and functioning of the National Investment Council.

¹⁵ Article 17 of Law 22-18 dated July 24, 2022, concerning investment promotion.

¹⁶ Lachache Mohammed: The Legal Mechanisms of Investment under the New Law 22-18. *Journal of Legal and Social Sciences*, Volume 8, Issue 1, March 2023, p. 312.

¹⁷ Brahimi Ben Harath Hayat: *Courses of Policy and Investment Strategy*. Faculty of Economic Sciences, Mostaganem University. Academic Year 2019-2020, p. 113.

¹⁸ Ben Amara Ahlam: Current Global Investment Trends and the Future of Global Investment. *New Economy Journal*, Issue 12, December 2017, p. 280.

¹⁹ Brahimi Ben Harath Hayat: op. cit. p. 114.

- Assisting decision-makers in making informed decisions and addressing the main problems facing investors, especially as the Council receives a report from the Algerian Investment Promotion Agency.
- The Council works towards comprehensive coordination with all bodies and entities involved in the investment process.

To achieve its investment strategies, the state utilizes offering incentives, privileges, and support to sectors it aims to revitalize or areas it aims to develop.

D) Implementation of Investment Policy: Investment is considered one of the most vital tools for economic development, and the success of the investment process necessitates the adoption of a clearly delineated policy that elucidates the legislator's aspirations through the enactment of investment laws.

- Definition of Investment Policy: Investment law serves as the instrument through which the host country articulates its investment policy and regulates the probabilities and estimations of expected outcomes from the investor's perspective.²⁰ Investment policy is defined as "the set of rules, methods, and procedures governing and directing investment decisions within the country." The aim of investment policy is to establish the foundations, rules, and mechanisms governing investment decision-making processes, thereby maximizing returns.²¹ Investment policy is manifested through laws and mechanisms aimed at promoting investment.²²

- Investment Policy Objectives: Through reading the provisions of the Investment Law 22-18, it becomes apparent that the successive amendments to the investment law aim to achieve the objectives mentioned in Article 02, in addition to directing the granting of incentives to specific sectors and regions.

Algeria aims, through reading the provisions of Investment Law 22-18, to achieve the objectives of the strategic plan adopted by its investment policy. It works towards achieving 7 important goals:

1. Developing priority sectors and activities with added value.
2. Ensuring sustainable and advanced regional development.
3. Valorizing natural resources and local priority resources.
4. Prioritizing technological transformation.
5. Promoting innovation and knowledge economy.
6. Activating the creation of permanent jobs and enhancing the efficiency of human resources.
7. Strengthening and improving the competitiveness of the national economy and its export capacity.

Considering the composition and competencies of the council, it can be said that the Algerian state relies on the National Investment Council in shaping and proposing investment strategy, as well as supervising its investment policy with the aim of achieving sustainable development requirements.

1.2. The National Committee for Investment-Related Appeals and its Operation

The Presidential Decree No. 22-296, dated September 4, 2022, introduced the formation of the National Committee for Appeals Related to Investment and its operation. Its purpose is to establish the committee's composition, which adjudicates appeals filed by investors who believe they have been aggrieved in the application of the provisions of Law 22-18 concerning investment. This committee is chaired by a representative of the President of the Republic, with its members appointed by presidential decree.

In contrast, under the previous Decree No. 19-166, which defined the committee's composition, organization, and operational procedures, the committee was chaired by the Minister responsible for investment, with its members appointed by a decision of the Minister in charge of investment. This progression in oversight and authority appears to reflect the state's desire to enhance the committee's status and align it with the presidency to facilitate immediate monitoring and issuance of orders.

Investors must notify the committee of any disputes related to investment, particularly in cases of withdrawal or denial of incentives, or refusal to prepare documents and licenses by the administration and relevant authorities.²³ However, it is mandatory to lodge a complaint with the Algerian Agency for Investment Promotion within one month from the date of notification of the contested decision, although under the previous decree 19-166, filing a complaint with the agency was not mandatory, and the deadline for resolving the appeal was set at 60 days. This constitutes a reform aimed at expediting the resolution of appeals.

The appeal must be sent directly to the committee or through the investor's digital platform, accompanied by all the supporting documents and evidence that the committee may require, with a deadline not exceeding one month from the date of notification. The committee invites representatives of the relevant administrations and authorities on the subject of the appeal, as well as the investor, for the purpose of hearing them. Additionally, the chairman of the committee sends a copy of the appeal file to the relevant administrations and authorities, which must respond to the points objected to by the investor within 10 days of receiving the file. The committee decides on the appeal before it by a majority vote and submits a report to the President of the Republic every

²⁰ Djamel Boucetta, Legislative Stability and its Impact on the Investment Climate, Journal of Legal and Economic Research, Aflou University Center, Laghouat, Volume 05, Issue 02, June 2022, p. 110.

²¹ Brahimi Ben Harath Hayat: op. cit. p. 97.

²² Youssef Qechi, Investment Policy in Algeria, Al-Riyada for business economics journal, Volume 06, Issue 02, January 2020, p. 291.

²³ Article 6 of Presidential Decree No. 22-296 dated September 4, 2022, defines the composition of the National Committee for Investment-Related Appeals and its operation.

six months on its activities and the recurring issues faced by investments, providing recommendations for addressing them when necessary.²⁴ Furthermore, the investor may file a judicial appeal regarding this matter before the competent judicial authorities in accordance with the applicable legislation.²⁵

The provisions of the new law regarding the committee, whether it pertains to assigning the presidency to a representative of the president of the republic or appointing members by presidential decree, indicate the state's keenness and political will to attract and encourage investors. It also reflects its commitment to facilitating the investment process by enabling investors to appeal decisions issued by investment authorities. Any obstacles or bureaucratic hurdles encountered by investors will be reported to the president of the republic, who has the authority and means to remove obstacles and ensure justice for investors.

1.3. Algerian Investment Promotion Agency

The objective of attracting investments, especially foreign ones, is linked to achieving a public interest and benefiting the national economy. The key is not the quantity of investments but rather the benefits they yield and the added value they provide. Therefore, it is evident that the Algerian legislator's change of the agency's name from "National Agency" to "Algerian Agency" signifies its operation for the benefit of Algeria and its promotion of investments in Algeria's name, particularly in addressing foreign investors.²⁶ Moreover, the term "national" implies favoritism towards domestic investors, thus undermining one of the fundamental principles of investment, which is equality in treatment among investors.

Under Law 22-18, the agency has acquired extensive powers and is tasked with all necessary actions to implement the provisions of the investment law.

1.3.1. Definition of the Algerian Investment Promotion Agency:

It is a public institution with an administrative nature, endowed with legal personality and financial independence, and is placed under the guardianship of the Prime Minister, with its headquarters located in the city of Algiers. For your information, the agency includes two types of windows: a single window responsible for major foreign and domestic investments, and decentralized windows located at the local level in each province.

1.3.2. Agency's Tasks:

The tasks of the agency: Article 18 of Investment Law 22-18 stipulates that the agency is responsible for coordinating with the relevant administrations and authorities concerned of promoting investment in Algeria and abroad, by engaging with diplomatic and consular representations abroad. Additionally, within its operational framework, the agency initiates initiatives with both public and private entities in Algeria and abroad with the aim of enhancing investment in Algeria through:

- Developing and proposing a plan to enhance investment at the national and local levels.
- Establishing cooperative relations with similar foreign entities and enhancing them.
- Exchanging experiences.
- Valuing investment in Algeria and abroad with diplomatic representations through meetings between the Minister of Foreign Affairs and the Minister responsible for investment, along with foreign diplomatic representation in Algeria, to explain investment opportunities in Algeria and highlight the benefits provided to them.
- Informing and raising awareness among business circles.
- Ensuring the management of the digital platform for investors.
- Registering and processing investment files.
- Assisting investors in completing investment-related procedures.
- Managing incentives, including those related to the portfolio of projects authorized or registered before the issuance date of this law, i.e., those granted under the previous Law 16-09 and Order 01-03.
- Monitoring the progress of investment projects.

1.3.3. The services and facilities provided by the agency to investors:

Within the framework of incentivizing and encouraging investors to invest in Algeria, the agency provides the necessary information to investors and assists them in obtaining licenses, approvals, and the necessary real estate for establishing and operating investment projects. Additionally, it oversees the procedures for obtaining incentives and financial facilities provided by the state, ensuring that the services and commitments provided adhere to mutual interests for both parties.

A) Providing information to investors: By defining the investor, particularly the foreign investor, with the most important available opportunities and their types, the key sectors to be revitalized, and the regions to be developed, and by providing data and maps illustrating figures and statistics about the national economy

²⁴ Articles 7, 8, 9, 10, 11, and 14 of Presidential Decree No. 22-296.

²⁵ Article 11 of Investment Law 22-18.

²⁶ Lachache Mohammed: Op. cit. p 307.

and growth rate, in accordance with the commitments made by the legislator in the Investment Law.²⁷ This is because the investor cannot proceed with their investments unless accurate and reliable information about the investment climate is available to them. In the field of information provision,²⁸ actions include:

- Ensuring reception and information services for the benefit of investors in all areas essential for investment.
- Gathering necessary documents allowing for better understanding of legislation and regulations related to investment, processing them, and disseminating them through appropriate means.
- Establishing information systems enabling investors to access all necessary data to prepare their projects.
- Establishing databases related to business opportunities and potential resources and capacities at the local level.

B) Assisting the investor in obtaining the necessary licenses and approvals for the establishment and operation of the investment project: Managing and alleviating the burden on the investor through administrative facilitations by activating the digital platform for investors. This simplifies the registration procedures, monitors ongoing projects, prioritizes them for completion, and facilitates obtaining the necessary approval for the investor and the project.²⁹ This role is carried out by representatives of the public administrations and authorities represented in the single window.³⁰

C) Procedures for allocating the necessary economic real estate for the investment project: Within the framework of completing their investment project, the investor benefits from economic real estate, as stipulated by Article 06 of Investment Law 22-18, which allows investment projects eligible for incentive schemes to benefit from lands belonging to the state's private properties. The agency, through its single window and with delegation from the state, is tasked with managing the portfolio of economic real estate belonging to the state,³¹ identifying investments eligible for economic real estate in consultation with governors. Additionally, it processes requests from investors who have registered their requests for real estate through the digital platform for investors. Furthermore, the legislator grants the agency the authority to allocate real estate to investors in the form of concession by mutual agreement, which is transferable to assignment. Additionally, the agency has the right to exercise pre-emption rights on the real estate transferred from economic real estate.³²

D) Managing the procedures for obtaining incentives and financial facilitations provided by the state: The agency manages the financial affairs of the investor, especially regarding the granting of benefits, which have a particular current return. This is particularly crucial as investors, upon reading the Investment Law, focus on what the applicable state offers and build their profit expectations accordingly. Therefore, the National Agency works on:

- Preparing investment registration certificates and making necessary modifications when required.
- Identifying structured projects with at least 500 employees and an investment amount of no less than 10 billion Algerian dinars.
- Verifying the eligibility for benefits for registered investments.
- Endorsing lists of goods and services eligible for benefits provided by the investor.
- Drafting inspection reports for entry into the utilization phase and specifying the duration of benefits granted to the investor.
- Managing the transfer or conversion of goods and services that have benefited from benefits.
- Issuing a certificate of exemption from value-added tax.

1.3.4. Investment monitoring:

The agency's provision of services to investors necessitates supervision and monitoring of their investments to ensure the objectives of these investments are met and to ascertain their compliance with their duties and the execution of their commitments as agreed upon in the investment contract and as stipulated in investment law. Consequently, the agency engages in the following monitoring activities:

- Ensuring communication with relevant administrations and authorities to ensure compliance with the commitments undertaken by investors.
- Addressing investors' grievances and complaints.
- Enhancing monitoring, listening, and follow-up services for the benefit of registered investments.
- Monitoring the commitments undertaken by the investor throughout the acceptable period for the use of the acquired goods within the framework of the benefits.

²⁷ Zyad Faical Habib Al-Khayzaran, Op. cit. p. 244

²⁸ Article 04 of Executive Decree No. 22-298 dated September 8, 2022, outlines the organization and functioning of the Algerian Investment Promotion Agency.

²⁹ Zyad Faical Habib Al-Khayzaran, Op. cit. p. 235

³⁰ Article 26 of Law 22-18 related to investment promotion.

³¹ Article 08 of Law 23-17 dated November 15, 2023, specifies the conditions and procedures for granting economic real estate belonging to the state's private properties aimed at completing investment projects.

³² Articles 09, 11, 14, and 23 of the aforementioned Law 23-17.

In the event of non-compliance with the obligations arising from the application of the provisions of this law or the commitments made by the investor, these benefits may be partially or entirely withdrawn, without prejudice to the penalties stipulated in the applicable legislation.³³

1.3.5. Mechanisms for implementing the services of the Algerian Agency for Investment Promotion:

The novelty introduced by the new investment law regarding institutional reform of the investment apparatus lies in the establishment of two types of specialized windows for investment project affairs. The first type is a single window in the capital city of Algiers, tasked with major and foreign investment projects. The second type consists of decentralized windows catering to ordinary investments, each with local jurisdiction, established at the level of each province. The wisdom behind this is perhaps the legislator's desire to focus on major projects and foreign investments, given their potential to provide added value and contribute to competitiveness and sustainable development.

A) Reasons for choosing the single-window system: The single-window system involves allocating a single location where all relevant administrative bodies and authorities concerning investment are consolidated, with full powers to respond to the requirements and requests of investors. This aims to alleviate the burden and improve coordination among various interrelated departments.

The idea of establishing a single window, whether centralized or decentralized, stems from the necessity to streamline administrative procedures for investors, as previously there were obstacles, including the multiplicity of responsible entities for investment.³⁴ The choice of establishing a centralized or decentralized single window can be seen as a form of institutional reform through which investors can access investment services provided by various entities under integrated procedural steps.

Therefore, the necessity of establishing a single window is attributed to:

- Multiplicity of authorities responsible for investment.
- Complexity of administrative procedures required to deliver the service.
- Economic conflicts among the entities responsible for the investment process.
- Length of time required to obtain approvals, permits, and licenses necessary for establishing and operating the project.³⁵

Thus, investors only need to deal with a single authority to process all transactions within a coordinated process and to receive all necessary services through offices located in one specified site, while ensuring their commitment to providing services in an integrated manner and within a specified timeframe.

- The single window for major projects and foreign investments

Article 19 of Law 22-18 refers to this type of single window and considers it the sole national authority responsible for carrying out all necessary procedures to renew and accompany major investment projects and foreign investments. According to Article 21 of Law 22-18, the central window is directly responsible for implementing procedures related to the following:

- Actualizing investment projects.
- Granting decisions, licenses, and any document related to the practice of activities associated with the investment project.
- Obtaining the real estate earmarked for investment.
- Monitoring the commitments undertaken by the investor.

Representatives of the authorities and administrations at the single windows are qualified to grant, within specified timeframes, all decisions, documents, and licenses related to the realization and exploitation of the registered investment project at the level of the single window.

- Decentralized single windows:

The decentralized single windows serve as the sole hubs for investors at the local level, as they undertake tasks to assist and accompany investors in completing investment-related procedures. The representative of the responsible authorities and administrations directly involved in implementing procedures handles the following:

- Actualizing investment projects.
- Granting decisions, licenses, and any document related to the practice of activities associated with the investment project.
- Obtaining the real estate earmarked for investment.
- Monitoring the commitments acquired by the investor.

Moreover, the representative of the administrations and authorities at the single window is qualified to grant, within specified timeframes as per the applicable legislation and regulations, all decisions, documents, and licenses related to the realization and exploitation of the registered investment project at the single window level.

³³ Article 36 of Investment Law 22-18.

³⁴ Majda Shelbi, op. cit. p. 166.

³⁵ Majda Shelbi, op. cit. p. 166.

It is notable that the competencies and duties of both central and decentralized single windows are the same, but the difference lies in the type of investment, whether they are major, minor, local, or foreign projects. In conclusion, evaluating the services provided by the Algerian Investment Agency or through its single windows can be done by referring to the Doing Business report issued by the World Bank Group, which provides objective benchmarks for government procedures and regulations governing business activities and their implementation.³⁶ Through this, one can assess their seriousness in implementing investment policy and the extent of administrative cooperation in facilitating the investment process, as reflected in Algeria's position in the global rankings.

2. Digital transformation as a tool for institutional reform

The digital platform represents one of the tools of information and communication technology applications in the investment process. It serves as a tool for good governance,³⁷ facilitating investor-required procedures and providing information related to the investment process. Thus, it serves as an incentive for attracting investments, especially foreign direct investments. Additionally, it aligns with one of the areas the government aims to digitize in order to achieve the e-government model in Algeria. This is a nascent experiment initiated by the state across various sectors to streamline processes and eliminate obstacles and bureaucracy encountered by citizens. It represents a service that keeps pace with developments in the electronic field.

2.1. Definition of the digital platform for investors

The legislator introduced this mechanism in the new Investment Law 22-18 as part of modernizing and digitizing the investment sector. Article 23 stipulates that “a digital platform for investors shall be established” defining it as “an electronic tool for directing, accompanying, and monitoring investments from registration to utilization.”³⁸ Its management is entrusted to the agency, whereby this platform facilitates the provision of all necessary information and streamlines the procedures involved in the investment process.

Consequently, the agency ensures the provision of all necessary information for the investment process through the digital platform for investors, especially regarding:

- Investment opportunities in Algeria.
- Real estate offerings.
- Incentives and benefits associated with investment.
- All relevant investment procedures.

Moreover, this digital platform enables the provision of information to the authorities and administrations responsible for the investment process by integrating with the information systems of the relevant bodies and administrations involved in the investment process.

It is noteworthy that the role of the national single window, decentralized single windows, and the platform itself are similar. However, the difference lies in the fact that traditional single windows require investors to physically visit relevant departments, whereas the platform is a digital, automated means that serves investors wherever they are, facilitating their operations and reducing costs, thereby aligning with their expectations.

2.2. The role of the digital platform for investors

What distinguishes this tool is its electronic nature, meaning the elimination of physical paperwork from all procedures through the use of the internet and digitization of all investment-related processes. Additionally, the platform contributes to guiding investments and monitoring them, starting from the registration of investments and throughout their utilization period.

Furthermore, it serves as the sole avenue for investors to submit their requests regarding obtaining economic land for project completion.³⁹ Therefore, it is incumbent upon every investor to register their request through the digital platform for investors for the Algerian Agency for Investment Promotion to assess it.

2.3. The objectives of the digital platform for investors

The Algerian legislator aimed, through the introduction of this tool, to modernize the investment sector, enhance its transparency, and ensure procedural efficiency and improvement of investment services. Therefore, the platform aims to achieve the following:

- Facilitating the establishment, simplification, and streamlining of companies and investments.
- Enhancing communication between investors and economic administration.
- Ensuring transparency in the procedures required, such as providing data for reviewing and processing investors' files.
- Expediting the processing and study of investors' files by the relevant administrations.

³⁶ Zyad Faical Habib Al-Khayzaran, Op. cit. p. 254

³⁷ Zyad Faical Habib Al-Khayzaran, Op. cit. p. 254

³⁸ Article 27 of Decree 22-298 dated September 8, 2022, specifies the organization and functioning of the Algerian Investment Promotion Agency.

³⁹ Article 12 of Law 23-17, previously mentioned.

- Allowing investors to submit their files remotely.
- Improving public service and making it more accessible and user-friendly for investors.
- Enhancing the performance of public facilities.
- Organizing effective collaboration between the relevant administrative departments involved in investment activities.
- Facilitating direct and immediate exchange between officials of administrations and relevant bodies involved in investment, through improving coordination among departments associated with investment processes.

The aim of establishing this platform is to work towards improving the investment climate, paving the way for enhancements that reduce the demand on public administration, enhance transparency, and achieve necessary management. It provides a direct system for online submission of business projects, licenses, and procedures, utilizing technology to facilitate administrative work.

Conclusion :

The Algerian legislator, through the establishment of this tool, aimed to modernize the investment sector, enhance its transparency, and ensure procedural efficiency and improvement of investment services. Therefore, the platform aims to achieve the following:

- Facilitating the establishment, simplification, and streamlining of companies and investments.
- Enhancing communication between investors and economic administration.
- Ensuring transparency in the procedures required, such as providing data for reviewing and processing investors' files.
- Expediting the processing and study of investors' files by the relevant administrations.
- Allowing investors to submit their files remotely.
- Improving public service and making it more accessible and user-friendly for investors.
- Enhancing the performance of public facilities.
- Organizing effective collaboration between the relevant administrative departments involved in investment activities.
- Facilitating direct and immediate exchange between officials of administrations and relevant bodies involved in investment, through improving coordination among departments associated with investment processes.⁴⁰

The aim of establishing this platform is to work towards improving the investment climate, paving the way for enhancements that reduce the demand on public administration, enhance transparency, and achieve necessary management. It provides a direct system for online submission of business projects, licenses, and procedures, utilizing technology to facilitate administrative work.

Results:

- Previous economic reform and openness policies were insufficient to achieve the desired development, attributed to the failure of investment-related institutions and bodies to play their role in organizing, attracting, managing, and monitoring investment projects.
- The new Investment Law 22-18 introduced structural reforms involving the transfer and enhancement of authorities from one entity to another. Additionally, it allocated a single window for major and foreign projects, while introducing a new digital mechanism to facilitate procedures and reduce investment-related difficulties.
- Modernizing the investment sector represents a new direction aligned with contemporary trends, emphasizing governance mechanisms such as digital transformation. This reflects the legislator's intention to improve the investment climate, create a business-friendly environment, and consequently implement the adopted investment policy.

Recommendations:

- Despite the institutional reforms introduced by the legislator in the new Investment Law, it is necessary to create an environment conducive to investment activities by streamlining procedures and easing restrictions in all areas that constitute elements of the business environment.
- There is a need to continue building the necessary competitive capacities for the institutional framework and improve coordination among all involved departments in regulating the investment process through the widespread adoption of digital transformation mechanisms. This will facilitate the work of investors and attract investments to accelerate progress towards sustainable development goals.
- It is imperative to publish information, data, and statistics related to the investment process on the official website of the Algerian Investment Promotion Agency.

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3. Law N° 23-17 dated November 15, 2023, specifies the conditions and procedures for granting economic real estate belonging to the state's private properties aimed at completing investment projects.

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5. Presidential Decree N°. 22-296 dated September 4, 2022, defines the composition of the National Committee for Investment-Related Appeals and its operation.
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