



THE LEGAL FRAMEWORK FOR START-UPS IN ALGERIA

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Abstract:

Start-up enterprises originated from a creative, entrepreneurial idea with a high potential for rapid growth and prosperity. Their sole aim is to advance the national economy, achieve sustainable development, and restore balance to markets. However, these enterprises are often high-risk, which typically causes traditional credit institutions to hesitate in financing them.

To ensure the continuity of this type of enterprise, the Algerian state has acted swiftly to provide a legal and environmental framework that contributes to their promotion and sustainability. Through this research paper, we aim to define the legal framework governing start-up enterprises in Algeria

Most countries have shifted their focus to start-up enterprises as a means of bolstering and sustaining their economies in response to the current changes and contemporary trends in the business world. These enterprises are the result of innovative, entrepreneurial concepts that have the potential for substantial development and prosperity, particularly in the technological sector. Nevertheless, they are frequently associated with high risk, which is why conventional credit institutions are reluctant to provide them with financing. In spite of this, start-ups are crucial for the advancement of economic and social development.

In this context, there has been a growing necessity to investigate methods to encourage these enterprises and to establish mechanisms for managing and augmenting their efficiency in Algeria, particularly in the last three decades. They have been increasingly embraced as an alternative economic paradigm to promote economic growth, restore market equilibrium, and achieve sustainable development objectives.

In response, the Algerian government has rapidly implemented a favorable legal and environmental framework that fosters the development of start-up enterprises and reinforces national innovation capabilities. This also presents opportunities for networking with entrepreneurs and crucial players in this field.

The Algerian legislator has implemented a series of measures under laws that pertain to start-up enterprises, in recognition of the significance of the legal framework. Consequently, the subsequent research question is posed:

What is the legal framework for start-up enterprises adopted in Algeria?

To address this issue, we have adopted an analytical approach to understand and evaluate the legal and regulatory system for start-up enterprises, dividing the subject into two main topics:

- FirstTopic: The Nature of Start-up Enterprises
- SecondTopic: Innovative Strategies for Supporting Start-up Enterprises

FIRST TOPIC: THE CONCEPT OF START-UP ENTERPRISES

Start-up enterprises are relatively new, which has made it challenging to establish a precise and universally agreed-upon definition. This challenge is especially pronounced due to the frequent overlap between the concept of start-ups and that of small and medium-sized enterprises (SMEs). In this section, we aim to define start-up enterprises and clarify their characteristics and objectives.



Section one: Definition of Start-up Enterprises

1) Academic Definitions:

Many economists and business experts have attempted to define start-up enterprises.

Pierre Patini defined a start-up through its distinctive characteristics, including creativity, efficiency, productivity, flexibility, rapid decision-making, a strong collective spirit among the founders, and a growing profitability rate that is directly proportional to market expansion (Meziane & Amarouch, n.d., p. 34).

Another definition describes a start-up as a human organization designed to develop products or services under conditions of extreme uncertainty, meaning that it inherently involves a high level of business risk.

Patrick Fridenson, on the other hand, argues that labeling an enterprise as a start-up does not depend on its focus, age, size, or sector of activity. Instead, it must have four key features: high potential for growth, use of modern technology, the need for substantial funding with different forms of contributions, and operation within a new market that is difficult to assess in terms of risk (Zarouak, 2022, p. 972).

2) Legal Definition:

It is important to first note that the existing Algerian legal system does not fully align with the philosophy of start-up enterprises, as it lacks a precise definition and does not explicitly mention the procedures for their establishment or organization, nor does it specify a comprehensive legal framework. However, to support the movement towards establishing start-ups, Algerian authorities have attempted to create an environment conducive to this type of enterprise. The Algerian legislator has tried to define start-ups through a series of legal texts, detailed as follows:

❖ Under the Directive Law on Scientific Research and Technological Development No. 15-21:

Article 6 of this law defines a start-up as: "an enterprise responsible for the realization of basic or applied research projects, or one that engages in research and development activities."

The legislator provided definitions and explanations for some terms within this law without providing a precise definition of start-ups.

❖ Under the Directive Law for the Development of Small and Medium Enterprises No. 17/02:

This legislation identifies start-ups as a potential sector warranting development and promotion. Article 12 stipulates: "...and foster start-up enterprises within innovative initiatives."

Additionally, Article 21 of the same law refers to loan funds and "take-off" funds as mechanisms for financing start-ups and small and medium-sized enterprises (SMEs).

From Articles 12 and 21, it is clear that the Algerian legislator did not provide a definition of start-ups but emphasized supporting SMEs to help them overcome financial obstacles in the initial stages of establishing innovative enterprises.

❖ Under Law No. 19-14 on the Finance Law for 2020

Article 61 of the 2020 Finance Law delineates the idea of start-up enterprises, offering a range of tax incentives, including exemptions from corporation profit tax and value-added tax for commercial transactions.

It can be observed that in Article 61, the Algerian legislator did not specify the nature and identity of the start-up enterprise that benefits from these tax incentives. Instead, it merely mentioned start-ups with the aim of encouraging their growth and development.



Furthermore, Article 131 of the same law stipulates: "A special account shall be established in the treasury under the number 150-302, entitled the Fund for Supporting and Developing the Economic System and the Start-up Enterprise Economic System," where the following items are recorded:

- **In the Revenue Section:** State subsidies, revenue from non-tax fees, and other resources and contributions.
- **In the Expenditure Section:** Financing feasibility studies, financing and developing business plans, financing technical assistance, guaranteeing bank loans for start-ups, setting incentive rates for bank loans, funding training, and incubating start-ups.

As a summary, the 2020 Finance Law aims to support start-ups through ongoing tax reforms, encouraging investment, combating tax evasion, and maintaining public financial balance. The law also provides tax incentives and exemptions from customs duties for start-ups active in the fields of innovation and new technologies, and it grants them access to land for expanding their investment projects.

- ❖ Executive Decree No. 20-254, issued September 15, 2020, establishes a national committee responsible for awarding the "Start-up" label, "Innovative Project," and "Business Incubator," while delineating its functions, structure, and operations.

This committee was established to contribute to diagnosing and developing innovative projects and participating in promoting the ecosystems of start-up enterprises. According to Article 11 of this decree, a start-up is defined as any enterprise subject to Algerian law that meets the following criteria:

- The firm shall not exceed eight years in age, with this duration measured from the date it obtains the start-up designation from the national committee.
- The company model must rely on creative products, services, business frameworks, or any novel concept.
- The annual revenue must not be beyond the figure established by the national committee; nonetheless, this order does not delineate the minimum and maximum revenue levels for these firms.
- At least 50% of the company's capital must be held by individuals, accredited investment funds, or other entities that have obtained the start-up designation.
- The enterprise's development potential must be substantial.
- The employment count must not surpass 250. Establishing a limit of 250 people makes start-ups equal to medium-sized firms in terms of workforce size. What is the difference between the two?

It is apparent from the aforementioned that the Algerian legislator excluded "technology" as a criterion for categorizing start-up firms, which contrasts with the practices seen in other countries globally.

Section two: Characteristics of Start-up Enterprises

Start-up enterprises possess a unique set of characteristics, which are outlined as follows:

- **Recent Establishment:** Start-ups are young and temporary enterprises operating in experimental markets with hypothetical ideas. They face two choices: either evolve and transform into successful companies or close down and incur losses.
- **Accelerated Expansion:** These firms possess the capacity to swiftly amplify their operations regarding heightened production and sales without a proportional rise in expenses.

- Technological Dependence: Start-ups depend on contemporary and sophisticated technology, facilitating swift growth and significant revenues in relation to their brief operational duration and little initial expenditures.
- Low Start-up Costs: Start-up enterprises are established with relatively low costs compared to the rapid and substantial profits they can generate. Examples include companies like Google, Microsoft, and Amazon (Bloud, 2022, pp. 755-756).

Section Three: Objectives of Start-up Enterprises

Start-up enterprises are a key component of national economic and social development programs, providing them with a clear and defined identity distinct from other sectors to enhance their importance. The objectives of these start-ups include the following:

- Market Competition and Job Creation: Start-ups aim to achieve competitive objectives within the market while creating permanent job opportunities. This goal is crucial and is particularly effective in developing countries since establishing these enterprises does not require substantial material resources.
- Promotion of Individual and Collective Initiative: Start-ups foster entrepreneurial spirit by establishing commodity or service-based economic activities and revitalizing previously abandoned economic sectors, such as traditional industries.
- Economic Connectivity: Start-ups serve as a link within the economic fabric through the various relationships they maintain with surrounding enterprises, creating new job opportunities either directly or indirectly.
- Diversity in Banking Activities: Start-ups enhance diversity in banking services and respond better and faster to customer demands.
- Reliance on Technology: Start-ups conduct their business based on innovative ideas that meet market needs in a smart and contemporary manner, achieving growth and progress while seeking funding through online platforms (Bouokka, 2022, p. 42).

SECOND TOPIC: NEWLY ESTABLISHED STRATEGIES TO SUPPORT START-UP ENTERPRISES

To support the establishment and promotion of start-up enterprises, public authorities have created supporting structures, including:

Section one: The National Committee for Granting the Start-up Label

This committee was established under Executive Decree No. 20-254 and is affiliated with the Minister responsible for start-up enterprises, with its headquarters in Algiers.

1) Duties and Responsibilities of the National Committee for Granting the Start-up Label:

The committee's responsibilities are as follows:

- Granting the "Start-up" label.
- Granting the "Innovative Project" label.
- Granting the "Business Incubator" label.
- Contributing to the diagnosis and promotion of innovative projects.
- Participating in the promotion of ecosystems for start-up enterprises.
- The national committee will approve its internal regulations during its first meeting and will specifically discuss the following:
- Granting the "Start-up" label to newly innovative enterprises.

- Granting the "Innovative Project" label to innovative project owners who have not yet established a company.
- Granting the "Business Incubator" label.

Reviewing applications that were previously rejected for the "Start-up" label, "Innovative Project," and "Business Incubator."

2) Conditions for Granting the "Start-up" Label:

A start-up is defined as any enterprise subject to Algerian law that meets the following criteria:

- The enterprise shall not exceed eight (8) years.
- The company model must be founded on unique products, services, business frameworks, or any novel concept.
- The annual revenue shall not surpass the level established by the national committee. At least 50% of the company's capital must be held by individuals, accredited investment funds, or other entities that possess the "Start-up" designation.
- The growth potential must be sufficiently large.
- The employment count must not surpass 250.

An enterprise wishing to obtain the "Start-up" label must submit an application through the national start-up electronic portal, accompanied by the following documents:

- A duplicate of the commercial register, tax identity card, and statistical registration.
- A duplicate of the company's articles of association.
 - A certificate of registration with the National Social Insurance Fund (CNAS), together with an employee roster.
- A certificate of registration with the National Social Insurance Fund for the self-employed (CASNOS) (Executive Decree No. 20-254, 2020, p. 11).
- A copy of the financial accounts for the present fiscal year.
- A comprehensive business plan for the venture.
- The scientific and technical competencies and experience of the enterprise's personnel.
- Any intellectual property documentation and any awards or recognitions obtained, if relevant.

The "Start-up" designation is awarded for a duration of four (4) years, with the possibility of one renewal under identical conditions. Upon rejection of an application, the national committee is required to provide a justification for its decision and to inform the applicant online. (Chelouche, 2022, p. 70).

The committee may reevaluate its decision upon a substantiated request from the applicant, who shall get the final response online within thirty (30) days of the application submission date. The determinations to confer the "Start-up" designation will be disseminated on the national start-up electronic portal.

Conditions for Granting the Innovative Project Label

Any individual or collective of individuals may apply for the "Innovative Project" designation for any innovation-related initiative. Individuals seeking to acquire this label must submit an application via the national electronic platform for start-up firms, together with the requisite documents:

- Project Presentation: An overview of the project and its novel features.



- Growth Potential: Data regarding the factors that signify substantial prospects for economic expansion.
- Team Qualifications: The scientific and technical credentials and expertise of the team accountable for the project.
- Intellectual Property Documentation: All intellectual property documentation and any awards or recognition obtained, if relevant.

The "Innovative Project" designation is awarded to an individual or group for a duration of two (2) years, with the possibility of two renewals under identical conditions. Decisions to confer the "Innovative Project" designation will be disseminated on the national electronic platform for start-up firms (Executive Decree No. 20-254, 2020, p. 11).

Conditions for Granting the Business Incubator Label

Any governmental or private entity, or a collaboration between the public and private sectors, that provides assistance to start-up ventures and proponents of innovative initiatives in terms of lodging, training, consultation, and finance qualifies for the "Business Incubator" designation. Applications for the Business Incubator label must be submitted to the national committee through the national electronic portal for start-up firms, together with the essential documents:

- Detailed Incubator Plan: A comprehensive layout of the business incubator.
- Equipment List: A list of the equipment made available to the start-up enterprises it incubates.
- Services Offered: A description of the various services provided by the business incubator to start-up enterprises.
- Training Programs: Information on the various training and coaching programs proposed by the business incubator.
- Staff CVs: The resumes of the incubator's staff, trainers, and coaches.
- List of Incubated Start-ups: A list of the start-up enterprises that have been incubated, if applicable.
- In addition to the aforementioned documents, private sector incubators must provide the following (Executive Decree No. 20-254, 2020, p. 12):
- Commercial Registration: A duplicate of the commercial register and tax identity card.
- Company Articles: A copy of the company's articles of association.
- Social Insurance Registration: A certificate of registration with the National Social Insurance Fund (CNAS), accompanied by a list of employees.
- Self-employed Registration: A certificate of registration with the National Social Insurance Fund for the self-employed (CASNOS).
- Financial Statements: A copy of the financial statements for the current period

Applicants for the "Business Incubator" designation must possess skilled personnel with requisite qualifications and sufficient professional experience in enterprise support. The nominated business incubator must undertake the following obligations throughout the incubation period:

- Offer Workspaces: Accommodating incubated start-up firms by supplying them with fully equipped workspaces.

Section Two: The Promotion and Management Institution for Support Structures for Start-ups "Algeria Venture"

The institution was founded by Executive Decree No. 20-356, dated November 30, 2020, under the designation "Algeria Venture." A unique legal standing was conferred, delineating its functions,



structure, and administration. Algeria Venture is a state institution characterized by industrial and commercial functions. In its interactions with the state, it adheres to regulations governing public administration, yet in its engagements with third parties, it operates as a commercial company. The entity functions under the oversight of the Minister responsible for Start-ups and possesses legal personality and financial autonomy, with its headquarters situated in Algiers.

Algeria Venture is the inaugural public authority instrument designed to execute the national policy for the promotion and management of Start-up support frameworks, including incubators, accelerators, and innovation development. The primary roles encompass:

- Developing and executing yearly and multi-year initiatives for the advancement of start-up incubators and accelerators in collaboration with pertinent stakeholders, while assuring their oversight and assessment.
- Promoting technology awareness and facilitating the distribution of information regarding technological advancement through diverse media to foster economic and social development.
- Preparing and supervising efficiency contracts pertaining to the services rendered by the support structures within its jurisdiction, guaranteeing adherence to compliance, and fostering cooperation and cohesion among them. (Executive Decree No. 20-254, 2020, p. 12).

Section Three: The Start-up Financing Fund

The Algerian government established this fund to bolster the financial ecosystem of start-ups, as stipulated in Article 131 of the Finance Law 2020, within a designated treasury allocation account numbered 150-302.

The Start-up Financing Fund is predicated on equity investment funding rather than conventional loan-based financing processes. This indicates that financing for these institutions is based on risk-sharing, involving the distribution of profits and losses, without necessitating the provision of concrete guarantees that they lack. (Bloud, 2022, p.757).

The significance of instituting the Start-up Financing Fund is underscored by the subsequent points:

- Minimizing expenses and mitigating potential hazards throughout the project initiation period.
- Financing the requirements of emerging start-ups, encompassing funding for feasibility studies, company development plans, technical support, prototype development expenses, charges associated with technical work, training, and future project planning.

Facilitating the integration of start-ups with the economic landscape, supplying essential infrastructure for their initiation, enhancing the economic ecology for start-ups, and instituting targeted programs to launch and support start-ups according to their technological requirements. (Bloud, 2022, p.757).

The legal framework established by Algerian public authorities seeks to bolster and advance the mechanism for Start-ups, elevating them to the status of large enterprises, commencing with Law No. 17-02 concerning the Directive Law for the development of small and medium-sized Start-ups, which underscores the promotion of Start-ups within the context of innovative projects as defined in Article 21.

This is succeeded by the creation of a designated allocation account pursuant to Article 131 of Law 19-14, encompassing the Finance Law for the year 2020, entitled "Support and Development Fund for the Economic Ecosystem of Start-ups." This resulted in the designation of a Minister Delegate to the Prime Minister, tasked with overseeing Start-ups and the knowledge economy. Executive Decree 20-254 was subsequently enacted to establish a National Committee responsible for conferring the "Start-up," "Innovative Project," and "Business Incubator" designations, thereby contributing to the advancement of Start-up ecosystems. Subsequently, Executive Decree 20-356 was enacted, which created the Promotion and Management Institution for Support Structures for Start-ups.



However, legal challenges persist in the domain, especially over the commercial firm structure that aligns with the nature of its operations. An examination of commercial law indicates that Algerian legislation classifies companies solely into partnerships and capital companies, delineating their structures and legal frameworks, while neglecting the concept of Start-ups, which amalgamate personal and financial factors with a unique management approach.

To resolve this issue, it is anticipated that Algerian legislators will emulate the model established by the French legislator via Law No. 94-01, enacted on June 3, 1994, which introduced the "Simplified Joint Stock Company," tailored to the characteristics, regulations, and goals of Start-ups. This would establish a more suitable legal framework that guarantees the efficiency and viability of these start-ups. (Bloud, 2022, p.758).

These companies necessitate adaptable protocols for their formation and structure, allowing participants to independently define their bylaws. The president is enrolled in the general social security system and is classified as an employee, with their social contribution amounting to around 62% of their salary.

Conclusion:

Interest in start-ups has grown crucial due to their substantial impact on national economic development and their contribution to social progress. Start-ups serve as a fundamental component of growth in nations due to their contributions to national income, value generation, job creation, and employment, eventually enhancing societal welfare.

The Algerian government is endeavoring to establish a novel economic model, shifting away from the rent-seeking behavior that has defined the nation's economy for decades. Thus, investing in and supporting start-ups has become a priority for Algerian economic policymakers to promote development and enhance local production. The Algerian government has recently shown considerable interest in supporting young entrepreneurs in establishing their start-ups.

The Algerian legislator has enacted a series of measures within laws pertaining to Start-ups, with the government unveiling new decisions to execute a strategy for the promotion of Start-ups and their financing mechanisms, chiefly through the creation of an investment fund aimed at financing and supporting Start-ups. A legislative framework has been developed to delineate Start-ups and incubators, hence streamlining their establishment processes. In this context, we suggest:

- Modifying current texts to align with new frameworks, such as allocating financial sources for Start-ups to mitigate the challenges they encounter.
- Examining commercial law to implement the simplified joint-stock company, so establishing a more appropriate legal framework that guarantees the efficiency and viability of start-ups.

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