



PRINCIPLES OF INVESTMENT IN LIGHT OF LAW NO. 22/18 ON INVESTMENT

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Abstract: *This article delineates the foundational principles underpinning Algeria's investment policy, notably the principles of investment freedom, equality, and transparency, which serve as essential tools for enhancing the business environment and attracting capital. The principle of investment freedom affords investors the autonomy to initiate projects without being encumbered by cumbersome bureaucratic obstacles, while simultaneously underscoring the necessity for legal frameworks and limitations that uphold the sovereignty of the state over its territorial integrity. The principle of equality is designed to ensure equitable treatment of all investors, whether domestic or foreign, by providing balanced opportunities and eliminating any tendencies towards discrimination or preferential treatment, thus fostering a dynamic economic atmosphere. In terms of transparency, the principle guarantees a clear and stable investment environment by ensuring the availability of legal and administrative information, promoting the digitization of procedures, and enhancing regulatory oversight. In conclusion, embedding these principles into practice is a critical step towards stimulating productive investments, bolstering the national economy, and establishing more reliable and sustainable economic partnerships.*

Keywords: *Investment Freedom Principle - Equality Principle - Transparency Principle - Investor - Investment Climate.*

INTRODUCTION

Over the years, Algeria has recognized investment as a fundamental pillar of its economy, viewing it as the cornerstone for both economic recovery and sustainable growth. Investment plays a significant role in various sectors, notably in revitalizing state-owned enterprises and, crucially, in advancing industrial capabilities through the transfer of technology, particularly in the case of foreign investments.

To achieve economic recovery and long-term development, it became imperative to foster an investment climate that not only attracts but also reassures potential investors regarding the safety and security of their ventures within the country. The national legislature, after undertaking a series of significant legal and economic reforms, focused on enhancing the investment environment by providing investors with a wide range of guarantees, as articulated in the new Investment Law No. 22/18. This law underscores guarantees that have long been embedded in Algeria's investment laws, while introducing new provisions aimed at benefiting investors and stimulating investment. These new provisions are closely aligned with the ongoing global trends of digitalization and modernization, reflecting the country's commitment to progress and adaptation in a rapidly changing world.

The reforms go beyond merely outlining guarantees; they seek to reinvigorate the very spirit of investment principles, which form the core subject of this paper. Specifically, Law No. 22/18, in its Article 3, enshrines three key principles: the principle of investment freedom, the principle of equality, and the principle of transparency, principles that have been formally established for the first time in this law, distinguishing it from its predecessors.

These investment principles represent a legal and political commitment on the part of the Algerian state. They carry with them the profound responsibility of ensuring their effective implementation on the ground. This is particularly crucial given the country's need for strategic economic partnerships and the imperative to attract foreign capital in order to achieve comprehensive development, especially within the economic sector.



Considering the potential implications of these investment principles- freedom, equality, and transparency - should they be implemented without appropriate boundaries, it is evident that it is essential to define their limits. Thus, the central issue of this research paper is:

To what extent is Algeria prepared to operationalize these investment principles in a manner that successfully attracts investors, while simultaneously safeguarding state sovereignty?

For the methodology, a descriptive approach was employed, as it is deemed the most suitable for defining the principles in question and establishing their legal boundaries. Additionally, an analytical approach was adopted whenever necessary to interpret a text or legal provision.

Regarding the structure, the research paper was divided into three main sections to address the issue at hand:

- **First Section: Principle of Investment Freedom**
- **Second Section: Principle of Equality**
- **Third Section: Principle of Transparency**

FIRST SECTION: PRINCIPLE OF INVESTMENT FREEDOM

The principle of investment freedom stands as one of the oldest and most fundamental tenets upon which investment laws in Algeria have been established. Originating with the first investment law in 1963 under Law No. 63/277 and continuing through to the current Law No. 22/18 on investment enacted in 2022, this principle has consistently been a cornerstone of the legal framework. Its strength is further reinforced by its inclusion in successive constitutions, notably under Article 61 of the 2020 constitutional amendment.

Over time, this principle has been enshrined in numerous provisions, resulting in a series of regulatory amendments that have refined the content of the articles addressing it. Consequently, the legal framework surrounding investment freedom will be explored in detail (first part). However, like any legal principle, investment freedom is not without its exceptions. Despite the prominent position granted to this principle by the legislator, it is subject to specific limitations. Thus, while the principle of investment freedom is not entirely unrestrained, it is bounded by a series of constraints and exceptions (second part).

First: Enshrinement of the Principle of Investment Freedom

The concept of a free economy began to take shape in Algeria in the late 1980s, culminating in its explicit adoption in the 1989 Constitution. In this context, the principle of investment freedom was enshrined under Decree-Law No. 93-12, which focused on promoting investment. Article 3 of this decree clearly stated: "Investments shall be carried out freely, subject to the laws and regulations governing regulated activities..."¹ This principle was reaffirmed in the 1996 Constitution, under Article 37, which declared: "Freedom of trade and industry is guaranteed and practiced within the framework of the law."²

Further reinforcing this principle, Ordinance No. 01-03 on investment development adopted a similar stance in Article 4,³ aligning closely with the provisions of Decree-Law No. 93/12, while adding a condition related to environmental protection: "Investments shall be carried out freely, subject to the laws and regulations related to regulated activities and environmental protection."

The 2016 constitutional amendment also recognized this principle, with Article 43 stating: "Freedom of investment and trade is recognized and practiced within the framework of the law."⁴

¹ Legislative Decree No. 93/12, dated October 5, 1993, concerning investment promotion, Official Gazette No. 64. (Repealed)

² Constitution of 1996, dated December 8, 1996, Official Gazette No. 1996.

³ Ordinance No. 01/03, dated August 20, 2001, concerning investment development, Official Gazette No. 46. (Repealed)

⁴ Law No. 16-01, dated March 6, 2016, concerning constitutional amendments, Official Gazette No. 14, issued on March 7, 2016.



When the investment law was amended in 2016, the principle of investment freedom was once again reaffirmed. Article 3 of this law stipulated: "Investments carried out under the provisions of this law must comply with applicable laws and regulations, particularly those related to environmental protection, regulated activities and professions, and, in general, economic activities."

The year 2020 marked a significant turning point in investment legislation, with the constitutional amendment of that year formally enshrining investment freedom under Article 61, which stated: "Freedom of trade, investment, and entrepreneurship is guaranteed and practiced within the framework of the law."⁵

With the recent amendment to the investment law, Law No. 22/18, the principle of investment freedom was further reaffirmed. Article 3, Paragraph 1 of this law explicitly states: "Investment freedom: Any natural or legal person, whether national or foreign, resident or non-resident, wishing to invest is free to choose their investment, provided that they comply with the applicable laws and regulations."

Second: Restrictions on the Principle of Investment Freedom

In line with Algeria's protectionist economic policy, the principle of investment freedom cannot be absolute. As such, the legislator has established various restrictions to ensure that investment freedom is exercised solely within the framework of the law. These restrictions are dispersed across numerous legal texts, both general and specific in nature. Some restrictions are outlined in general laws that are not directly related to investment, while others are embedded in investment laws from various periods, each of which will be discussed accordingly.

1. General Restrictions on Investment Freedom

These restrictions have, over time, become widely accepted norms within the realms of commerce and business. The legislator has placed several necessary conditions on individuals wishing to engage in commercial activities, which are outlined in general provisions. These conditions include the requirement for the individual to possess legal capacity, a prohibition on those convicted of certain crimes, and addressing issues of incompatibility.

• Legal Capacity Requirement

Given the inherent financial risks and speculative nature of commercial activities, an individual must possess the legal capacity to engage in business. This means that individuals must be of legal age (at least 19 years old) and mentally competent. Article 40 of the Civil Code⁶ mandates that minors under the age of 19 are prohibited from engaging in commercial activities unless they obtain explicit permission from their guardian. This is referred to in commercial law as the "habilitation of minors,"⁷ a process that must be conducted in accordance with the procedures outlined in Article 6 of the Commercial Code. One such procedure includes the requirement that a minor be at least 18 years old.

For foreign investors, consistent with the principle of equality set forth in Investment Law No. 22/18, they must also be at least 19 years of age according to Algerian law. Furthermore, if legal entities are involved, Algerian law applies to their operations within the country.⁸

• Judicial Disqualification

Individuals convicted of felonies or misdemeanors are prohibited from engaging in commercial activities. This prohibition results in the forfeiture of their trading capacity. The primary objective of this restriction is to

⁵ Presidential Decree No. 20-442, dated December 30, 2020, concerning the issuance of the constitutional amendment ratified in the November 1, 2020 referendum, Official Gazette of the Algerian People's Democratic Republic, No. 82, issued on December 30, 2020.

⁶ Ordinance No. 75/58, dated September 26, 1975, concerning the Civil Code, Official Gazette No. 78, amended and supplemented.

⁷ Ordinance No. 75/59, dated September 26, 1975, concerning the Commercial Code, Official Gazette No. 101, amended and supplemented.

⁸ Article 10 of the Civil Code, op. cit.



ensure that commercial activities are conducted with integrity and fairness, as business requires ethical conduct.⁹ Additionally, traders who have been declared bankrupt are barred from engaging in commercial activities until their reputation has been restored, in accordance with the provisions set forth in commercial law.

- **Incompatibility Restrictions**

This restriction refers to the inability of individuals to combine commercial activities with certain public offices. Laws governing their non-commercial professions must explicitly prohibit such combinations, under penalty of both criminal and disciplinary sanctions. This limitation is further strengthened by Article 9 of Law No. 04/08, which regulates the conditions for engaging in commercial activities. It stipulates: "No individual may engage in commercial activity if they are subject to a specific system that declares a conflict of interest."¹⁰

2. Specific Restrictions on the Principle of Freedom in Investment Laws and Related Regulations

In addition to the general restrictions discussed above, the legislator has introduced specific limitations within the investment laws, particularly in relation to the practice of certain activities. The most significant of these restrictions will be addressed as follows:

- **Regulated Activities as a Restriction on Investment Freedom:**

The notion of regulated activities as an exception to the principle of investment freedom was first introduced under Decree-Law No. 93/12, which pertains to the promotion of investment, though without explicitly defining such activities. This was later clarified in Executive Decree No. 97/40, which established criteria for determining regulated activities and professions subject to restriction within the commercial register, along with their regulation. However, this decree was repealed by Executive Decree No. 15/234, which outlines the conditions and procedures for practicing regulated activities and professions subject to registration in the commercial register.¹¹

Article 2 of this decree defines regulated activities as follows: "Regulated activities and professions, as outlined in Article 1 above, are identified based on their inherent nature or subject, as activities and professions that possess special characteristics, and their practice is only permissible if they meet the conditions established by regulations." The essence of this definition is consistent with that found in the previous decree.¹²

The term "regulated activities" was retained in Ordinance No. 01/03 on investment development under Article 4, which states: "Investments are carried out in complete freedom, subject to the legislation and regulations pertaining to regulated activities." Similarly, this term was incorporated in Law No. 16-09, which addresses the promotion of investment in Article 3. However, it is notable that this term was omitted in the current Law No. 22/18.

- **Environmental Protection as a Restriction on Investment Freedom**

Environmental protection is recognized as an integral aspect of public policy, with the responsibility for safeguarding future generations falling to governments, individuals, and institutions alike. This concept has been central to international discourse, emerging in reports on environmental protection dating back to the

⁹ Khadiji Ibrahim, Essam Najah: "Restrictions on the Principle of Investment and Trade Freedom in Algerian Law," *Political and Legal Notebooks*, University of Kassadi Merbah, Ouargla, Volume 17, Issue 1, 2025, p. 41

¹⁰ Law No. 04/08, dated August 14, 2004, concerning the conditions for conducting commercial activities, Official Gazette No. 52.

¹¹ Executive Decree No. 97/40, dated January 18, 1997, concerning the criteria for determining regulated activities and professions subject to registration in the commercial register and their regulation, Official Gazette No. 5.

¹² Executive Decree No. 15/234, dated August 29, 2015, specifying the conditions and procedures for practicing regulated activities and professions subject to registration in the commercial register, Official Gazette No. 48.



16th century, particularly focusing on the economic development of the Global South and the environmental concerns of the Global North. The term "sustainable development" gained prominence through the efforts of the World Commission on Environment and Development, chaired by the Norwegian Prime Minister, and was popularized in the report *Our Common Future*.¹³

Given the increasing importance of environmental protection in the pursuit of sustainable development, and despite the undeniable role of investment in economic growth, the priority has often been placed on the former. Consequently, the legislator has imposed environmental protection as a restriction on investment freedom, a restriction that applies universally to all investors, whether domestic or foreign.

• The State's Right of Preemption as a Restriction on Investment Freedom

The state's right of preemption within the context of investment refers to a legal privilege that grants the state the priority to purchase an investment should its owner decide to sell or transfer it. This restriction was introduced as a means for the state to exert greater control over economic activities and to prevent future infringements within its jurisdiction, especially following high-profile cases such as those involving Orascom Egypt Cement and Djezzy Telecom in 2009. In response, a modification was made to Ordinance No. 01/03 through the supplementary finance law of 2009, which mandated that the state exercise its right of preemption.

However, the right of preemption was abolished under the 2020 Finance Law and replaced by a system requiring prior government approval for investments, particularly for the transfer of shares by foreign entities to other foreign parties, as stipulated under Article 52 of the law.¹⁴ This approval now serves as an alternative form of oversight for such investment activities.

SECOND SECTION: PRINCIPLE OF EQUALITY

The principle of equality stands as a cornerstone of modern legal frameworks and holds particular significance in the realm of investment law, where it serves as a guarantee for fairness and transparency among investors, both national and foreign. This principle seeks to create a level playing field, fostering competitiveness and minimizing the potential for discrimination or preferential treatment for certain groups.

The core objective of the principle of equality is to ensure that foreign investors are entitled to the same rights, privileges, and obligations as their domestic counterparts under the host country's investment laws. This implies that foreign investors should not be subjected to treatment that is less favorable than that afforded to national investors, while also bearing all the responsibilities that apply equally to all parties.¹⁵

Therefore, this section will first explore the legal enshrinement of the principle of equality (first) and then discuss its scope and application (second).

First: Enshrinement of the Principle of Equality

The principle of equality was initially implicit in the Monetary and Loan Law No. 90/10¹⁶, before being explicitly affirmed in Decree-Law No. 93-12 under Article 38, which stated: "Foreign natural and legal persons shall be treated the same as Algerian natural and legal persons with regard to rights and obligations related to investment..." However, due to the numerous deficiencies of this decree, it failed to attract foreign investors¹⁷.

¹³ Fawzia Zamouch, *Lectures on Environmental Law and Sustainable Development*, directed at first-year Master's students specializing in Urban Planning and Development, General Department, Faculty of Law, University of the Brothers Mentouri, Constantine, 2021-2022, p. 9.

¹⁴ Law No. 19/14, dated December 11, 2019, concerning the Finance Law, Official Gazette No. 81.

¹⁵ Kahina Erzil, *An Overview of the New Investment Law of 2022*, Critical Journal of Law and Political Science, Faculty of Law and Political Science, University of Tizi-Ouzou, Journal 17, No. 02, 2022, p. 51.

¹⁶ Law No. 90/10, dated April 14, 1990, concerning the Monetary and Credit Law, Official Gazette No. 16. (Repealed).

¹⁷ Legislative Decree No. 93/12, op. cit. (Repealed).



Consequently, Ordinance No. 01-03, related to investment development, was introduced to repeal Decree-Law 93-12 under Article 35. This ordinance reaffirmed the principle of equality in Article 14, which reads:

"Foreign natural and legal persons shall be treated in the same way as Algerian natural and legal persons in terms of rights and duties related to investment. All foreign natural and legal persons shall be treated equally, subject to the provisions of international agreements concluded by Algeria with their respective countries of origin."¹⁸

Upon reviewing this article, it becomes clear that the Algerian legislator enshrined the principle of equality not only between foreign and national investors, but also among foreign investors themselves, while ensuring compliance with Algeria's international commitments. This includes respecting agreements made with the countries of origin of foreign investors, which may involve restricting certain rights or privileges.

The principle of equality remained central, even after the repeal of Ordinance No. 01-03. With the enactment of Law No. 16-09 on the promotion of investment, the principle was reinforced in Article 21, which states:

"Subject to the provisions of bilateral, regional, and multilateral agreements signed by the Algerian state, foreign natural and legal persons receive fair and equitable treatment regarding their investment-related rights and duties."¹⁹

With the passage of Law No. 22/18, which repealed Law No. 16-09, the principle of equality was further emphasized, becoming a core element of investment law rather than merely a guarantee.

A review of prior laws and agreements enshrining the principle of equality reveals that, until Law No. 22/18, this principle was not explicitly referred to by this name. Instead, it was often described using terms such as "fair and equitable treatment," "most-favored-nation treatment," and "national treatment."

- Fair and equitable treatment refers to the non-discrimination between national and foreign investors.
- Most-favored-nation treatment ensures that foreign investors, as nationals of a particular country, receive the best treatment extended to foreign investors in Algeria, in accordance with agreements made between Algeria and the investing country.
- National treatment means that foreign investors should be treated on par with national investors.²⁰

Second: Exceptions to the Principle of Equality

Despite significant legislative efforts to enshrine the principle of equality, provisions still exist that differentiate between national and foreign investors. This section will focus on some prominent examples of discriminatory treatment, particularly in the sectors of media, civil aviation, privatization, the local partner requirement, and approval for project transfers.

1. In the Media Sector:

The media sector in Algeria is exclusively reserved for nationals, with foreign investors explicitly excluded, as outlined in media laws. For instance, Organic Law No. 23-14 on media specifies in Article 4: "Media activities are carried out by media outlets belonging to:

- Public bodies and public sector institutions.
- Political parties, associations, and trade unions.
- Natural persons of Algerian nationality, and legal entities subject to Algerian law, whose capital is owned solely by natural persons who enjoy Algerian nationality."²¹

¹⁸ Article 14 of Ordinance No. 01-03, op. cit. (Repealed).

¹⁹ Article 21 of Law No. 16-09, op. cit. (Repealed).

²⁰ Lamiya Hassaini, *The Status of the Principle of Non-Discrimination Among Investments in Algerian Law*, Journal of Studies on the Effectiveness of Legal Rules, Volume 03, Issue 02, 2019, p. 102.

²¹ Organic Law No. 23-14, dated August 27, 2023, concerning media, Official Gazette No. 56.



Similarly, Article 4 of Law No. 23-20 on audiovisual activities states²²: "Auditory and visual activities are carried out by media outlets belonging to public institutions and public bodies subject to Algerian law, with capital owned solely by natural persons who hold Algerian nationality."

These provisions clearly illustrate that the legislator has intentionally excluded foreign investors from participating in Algeria's media sector.

Second: In the Civil Aviation Sector

In this context, Law No. 98-06, which establishes the general regulations governing civil aviation (as amended and supplemented), specifies in Article 43: "Except for the state, natural persons of Algerian nationality or legal entities subject to Algerian law, whose majority capital is owned by natural persons of Algerian nationality, alone have the right to establish or operate an airport or an air station or a helicopter station open for public air navigation." Following the 2000 amendment, a significant shift occurred in the civil aviation sector, making it exclusive to Algerian investors and effectively excluding foreign involvement. Article 43 of Law No. 2000/05 states: "Except for the state, natural persons of Algerian nationality or legal entities subject to Algerian law alone may establish and/or operate an airport, aerodrome, or a helicopter station open for public air navigation."²³

3. Privatization Operations

Privatization refers to the transfer of ownership of state-owned economic institutions to private investors, often involving the management of these institutions being handed over to the private sector. Investment Law No. 22/18 does not explicitly address the possibility of foreign investment in privatization efforts, signaling that the legislator has not fully embraced the principle of equality between national and foreign investors in this area. Article 62 of the 2016²⁴ Finance Law stipulates that public economic institutions, when engaging in partnership operations by opening their capital to resident national investors, must retain at least 34% of the state's share. This effectively restricts participation to resident nationals, completely excluding foreign investors from privatization operations, even with a minimal 49% shareholding.

4. Authorization Requirement for Foreign Investment Transfer

Article 2 of the Supplementary Finance Law No. 20-07 of 2020²⁵ stipulates that any transfer of shares made by foreign parties to other foreign parties, involving the social capital of a body subject to Algerian law operating in a strategic sector, must receive prior government approval²⁶. The right of preemption, which was previously introduced as a regulatory tool in earlier laws, has now been explicitly abandoned and replaced by this requirement for prior approval. This approval process is mandatory for foreign investors seeking to transfer their investments, but it is not required for national investors, thus creating an exception to the principle of equality.

²² Law No. 23-20, dated December 2, 2023, concerning audiovisual activities, Official Gazette No. 77.

²³ Law No. 2000/05, dated December 6, 2000, amending and supplementing Law No. 98/06, which sets the general rules related to civil aviation, Official Gazette No. 78.

²⁴ Law No. 15/18, dated December 30, 2015, including the Finance Law for 2016, Official Gazette No. 62.

²⁵ Law No. 20/07, dated June 4, 2020, concerning the supplementary Finance Law for 2020, Official Gazette No. 33.

²⁶ In application of the provisions of amended Article 50 of Law No. 20/07, Executive Decree No. 21/145, dated April 17, 2021, defines the list of activities with a strategic nature, Official Gazette No. 30. These include, as per Annex 3, vital sectors: the pharmaceutical industry, energy and mining, and transportation. A comprehensive list of strategic activities in each sector has been defined.



5. Local Partner Requirement

Article 49 of the Supplementary Finance Law No. 20-07 of 2020 stipulates: "Except for activities related to the purchase and sale of products and those that acquire a strategic nature, which remain subject to a 51% participation by resident national shareholders, any other activity for the production of goods and services is open to foreign investment without the obligation of partnership with a local partner." This provision demonstrates that foreign investors are restricted to a 49% shareholding in activities related to the purchase and sale of products or those deemed of strategic importance, where a national shareholder must hold a 51% stake.

6. Requirement for Local Financing for Foreign Investment

Article 55 of Finance Law No. 15-18 of 2016 specifies: "The necessary financing for foreign direct investments or partnerships, except for capital formation in general, must be sourced locally. However, foreign financing required for strategic investments by institutions subject to Algerian law is authorized by the government on a case-by-case basis." This provision highlights one of the most significant examples of discriminatory treatment between national and foreign investors: the requirement for foreign investors to source financing locally for their investments, while foreign financing is permitted only under specific circumstances, particularly for strategic investments.

THIRD SECTION: THE PRINCIPLE OF TRANSPARENCY

In light of the democratic reforms and political opening that Algeria has experienced in recent years, alongside global developments, transparency has emerged as a critical goal for every government striving to foster democracy and progress. It has become essential to strengthen the legal framework with provisions that offer robust protection for human rights and fundamental freedoms across all sectors, while also encouraging investment. In this regard, the Algerian legislator enshrined the principle of transparency explicitly for the first time in Investment Law No. 22-18.

As transparency is a relatively new concept in investment law, particularly as it is being explicitly established as one of the core investment principles, it is important to first define its meaning (first), and then examine its manifestations in various legal contexts (second).

First: The Content of the Principle of Transparency

Transparency is a modern concept that has attracted significant attention from researchers, especially in light of the social and economic developments experienced by societies. Therefore, it is essential to address both the definition of transparency and its practical manifestations:

1. Definition of the Principle of Transparency:

Several definitions of transparency will be provided from both linguistic and terminological perspectives:

1.1 Linguistic Definition of Transparency:

The term "transparency" derives from the Arabic root "شف" (shaf), which refers to something that allows one to see through it, or perceive what lies beyond it. Therefore, transparency signifies the ability to see beneath the surface, revealing underlying aspects. In French, the word *transparence* connotes clarity and visibility, while in English, transparency similarly conveys the meaning of openness and clarity, signifying actions that allow individuals to understand what is being done in a transparent and straightforward manner.²⁷

1.2 Terminological Definition of Transparency:

Transparency refers to the clarity and accessibility of information related to public policy, ensuring that such information is comprehensible to the public. It is widely recognized as one of the most essential components

²⁷ Wahiba Belbaki, Madiha Fahla: *The Principle of Transparency in the Management of Public Administrative Affairs*, Journal of Rights and Freedoms, Mohamed Khider University, Faculty of Law, Biskra, Volume 10, Issue 01, 2022, p. 300.



of good governance, with the idea that the more transparency there is, the better the governance and stability. Transparency involves openness between the government and the public through their representatives in Parliament, as well as in civil society organizations such as political parties, trade unions, associations, and the media.²⁸

The United Nations defines transparency as: "The free flow of information in its broadest sense, providing information and operating in an open manner, allowing stakeholders to access the necessary information to protect their interests, make informed decisions, and identify mistakes."²⁹

Some definitions emphasize transparency as: "Clarity, rationality, adherence to work guidelines, equal opportunities, and the ease with which executive procedures can be implemented, understood, and avoided or prolonged without justification. It also encompasses integrity in their implementation."³⁰

In the context of public administration, transparency involves the clarity of laws, their ease of comprehension, consistency, stability, and alignment with one another. It also entails adapting these laws to evolving economic, social, and administrative conditions. Additionally, it requires simplifying procedures, disseminating and disclosing information, and making such information accessible to all stakeholders. Transparency, therefore, means that administration operates in an open and visible manner, with information being accessible to both employees and the general public.³¹

In the context of investment, the principle of transparency is primarily concerned with ensuring that investors, regardless of their legal status, have access to all relevant information regarding their investments, from the moment they are registered until the conclusion of their involvement. This information should be provided by the authorities overseeing the process. This is achieved by clarifying all the legal procedures to be followed, ensuring credibility, and ultimately facilitating and encouraging investors to participate in investment activities.

2. Manifestations of the Principle of Transparency:

The concept of transparency is linked to many other concepts that are integral to its meaning. The principle cannot be complete or realized without their existence, as these act as the foundations for transparency. The most important of these are:

2.1 Democracy and Participation:

Democracy is a political and social system that organizes the relationship between individuals and the state based on the principle of equality between citizens and their participation in lawmaking³². Therefore, achieving participation in managing public administrative affairs requires the adoption of a democratic approach, which includes citizens' right to manage through electing representatives. This, in turn, enhances transparency and reduces corruption within the state.³³

²⁸ Saida Al-Kilani, Bassem Sakja: *Nuhur Shafafiya Urduniya*, 1st Edition, Archive Foundation, Amman, 2000, p. 66.

²⁹ Fares Ben Alouch Ben Badi Al-Sebai: *The Role of Transparency and Accountability in Reducing Administrative Corruption in Government Sectors*, PhD Thesis, Naif Arab University for Security Sciences, College of Graduate Studies, Saudi Arabia, 2010, p. 13.

³⁰ Fares Ben Alouch, *Ibid*, p. 16.

³¹ Farid Abbas, *Lectures on Investment Law*, directed at first-year Master's students specializing in Business Law, Department of Law, Faculty of Law and Political Science, Mohamed Bougara University, Boumerdes, Algeria, 2022-2023, p. 54.

³² Nabil Nouis, Saryak Massouda, *The Role of the Principle of Transparency as a Preventive Measure to Combat Corruption in Algeria According to Law No. 06-01*, Journal of Legal Studies, Institute of Law and Economic Sciences, Si-Hawas Brika University, Algeria, Issue 2, 2018, p. 153.

³³ Wahiba Belbaki, Madiha Fahla: *op. cit*, p. 304.



2.2 Integrity:

Integrity is one of the contributing factors to achieving transparency in any democratic society, as it ensures communication between citizens and decision-makers and strengthens institutional commitment to achieving quality by adhering to values and honest behaviors.³⁴

2.3 Media and Information Disclosure:

In the context of transactions with the state, media or disclosure means informing the public about the ongoing administrative activities, thus allowing the public to know information related to public affairs in an accurate manner. The media is a tool for reducing secrecy, which compels the administration to manage efficiently, as administrative abuse often occurs behind closed doors. Therefore, making the administration's mistakes public forces it to be cautious, as it may face public criticism. Thus, media becomes an important manifestation of transparency.³⁵

2.4 Accountability:

The term accountability refers to the concept of being answerable not only for oneself but also to others. Accountability means that the public can hold the government accountable for its actions related to public affairs. It is a means of regulating behavior, as it encourages individuals to take responsibility for the outcomes of their actions. The principle of accountability provides us with the right to inquire about the administrative actions of others and grants them the right to explain their behavior concerning the execution of their duties. The concepts of transparency and accountability are interconnected and complement each other, there is no true transparency without the establishment of accountability.³⁶

2. Legal and Regulatory Enshrinement of the Principle of Transparency in Investment:

Algeria has adopted the principle of transparency as part of its broader reform initiatives, which is reflected in various constitutional and legislative texts. This section will focus on the most significant legal milestones and explore the regulatory enshrinement of transparency, particularly in investment laws. This includes the introduction of the digital platform for investors in Investment Law No. 22/18, which will be addressed later in the discussion.

2.1 Legal Enshrinement of the Principle of Transparency:

As Algeria embraced democracy, it became increasingly necessary to integrate transparency into its legal framework. However, the explicit adoption of this principle by the legislator was lacking until recently. Despite its importance, the regulation of transparency remained limited for a long time. The key legal milestones relevant to transparency, spanning from constitutional provisions to pertinent laws, will be examined as follows:

- **Constitutional Enshrinement of Transparency:**

- ✓ **From 1963 to the 1989 Constitution:**

During this period, transparency was not a clearly defined concept, and the provisions addressing it were insufficient to fully realize the principle in the 1963 and 1976 Constitutions, both of which embraced a one-party system.³⁷

³⁴ Nabil Nouis, Saryak Massouda, *op. cit.*, p. 163.

³⁵ For more details, refer to: Wahiba Belbaki, Madiha Fahla, *op. cit.*, p. 302-304.

³⁶ Nabil Nouis, Saryak Massouda, *op. cit.*, p. 163.

³⁷ Belbaki Wahiba, Madiha Fahla, *op. cit.* p. 306.



Following the 1989 Constitution, however, the state began to acknowledge the principle of transparency, alongside the principle of participation.³⁸ Articles 14, 15, and 16 of the 1989 Constitution granted citizens the right to engage in the management of public affairs at the decentralized administrative level through elected councils. Furthermore, it enshrined the freedom of expression in Article 9.

✓ **From 1996 to 2016:**

The 1996 Constitution largely mirrored the 1989 Constitution, with its preamble emphasizing the principles of freedom, democracy, and public participation in public affairs. It also endorsed administrative decentralization, which aimed to simplify procedures and enhance their clarity and transparency, making information more accessible. This was clearly articulated in Article 16: "The elected council represents the central base and the place for citizens' participation in managing public affairs."³⁹ Despite subsequent amendments to the 1996 Constitution, transparency continued to face significant challenges, with the right to participate being applied in a largely formal manner.

The 2016 constitutional amendment marked a significant advancement, incorporating several provisions related to transparency. Notably, Article 51 guarantees citizens the right to access information, documents, and statistics, as well as the right to transmit them. Furthermore, Article 203 addressed the prevention and combatting of corruption within the framework of principles that embody integrity and transparency.⁴⁰

• **2020 Constitutional Amendment:**

The 2020 Constitution strongly emphasized the principle of transparency through various provisions. Article 9 states: "The people choose their institutions whose goal is to ensure transparency in managing public affairs." Similarly, Article 55 asserts: "Every citizen has the right to access information, documents, and statistics and to obtain and circulate them."⁴¹

Furthermore, Article 199 established the creation of the Court of Auditors, tasked with conducting ex-post control over state funds, local governments, public facilities, and state-owned commercial capital. This institution contributes significantly to promoting good governance and transparency. Additionally, Articles 204-205 outlined the creation of the High Authority for Transparency, Prevention, and Combating Corruption, which is charged with developing a transparency strategy, fostering a culture of transparency, and preventing corruption.

• **Legislative Enshrinement of Transparency:**

Several key laws have been enacted to uphold the principle of transparency, particularly in the context of investment. Notably, the Law on Environmental Protection within the Framework of Sustainable Development No. 03/10⁴² enshrines the right of individuals to access environmental information, ensuring transparency in decision-making processes related to development while enhancing democratic media and participation. Article 3, Clause 8 of this law emphasizes the importance of information and participation.⁴³

Law No. 06-01, which addresses the prevention and combating of corruption, underscores the promotion of integrity, accountability, and transparency in managing both public and private sectors. Article 15 of this law further establishes transparency as a critical mechanism in the fight against corruption. Additionally, the law

³⁸ Articles 14-15-16 of the Constitution of the Algerian Republic, 1989, issued by Presidential Decree No. 89-, dated February 22, 1989, Official Gazette No. 64.

³⁹ Constitution of 1996, op. cit.

⁴⁰ Articles 51, 203 of the 1996 Constitution, amended in 2016, op. cit.

⁴¹ Articles 9, 55 of the 1996 Constitution, amended in 2020, op. cit.

⁴² Law No. 03/10, dated July 19, 2003, concerning environmental protection within the framework of sustainable development, Official Gazette No. 43.

⁴³ Law No. 06-01, dated February 20, 2006, concerning the prevention and combating of corruption, Official Gazette No. 74, amended and supplemented.



calls for the creation of a High Authority for the Prevention of Corruption, with Law No. 22/08 ⁴⁴providing the foundational legal framework for the "High Authority for Transparency and Prevention of Corruption."

In Investment Law No. 22/18, the principle of transparency is explicitly enshrined in Article 3, aligning with global trends that emphasize the need for a secure and conducive investment environment. The success of investment is closely tied to transparency and the free flow of information, instilling confidence and reassurance in potential investors in Algeria.

2.2 Embodiment of Transparency through the Digital Platform for Investors:

To fully realize the principle of transparency, Investment Law No. 22/18 established the digital platform for investors through Article 23, which states: "A digital platform for investors will be created, and its management will be entrusted to the agency, allowing for the provision of all necessary information..."

The concept of digitization in investment involves utilizing digital and electronic technologies to organize and manage all facets of investment operations. The primary objective of this system is to facilitate communication between investors and regulatory bodies, ensuring easy access to necessary information and providing services efficiently. This contributes to creating a more transparent and secure investment environment, thus enhancing economic growth, supporting sustainable development, and reinforcing the digital framework of Investment Law 22/18.

This initiative reflects the state's long-standing commitment to implementing electronic management systems across various sectors, such as higher education and scientific research during the COVID-19 pandemic. This approach has now extended to the economic sector, aiming to improve transparency in dealing with investors and enhancing the performance of investment projects in Algeria.⁴⁵

The significance of digitization in the investment sector is further underscored by its ability to simplify administrative procedures and eliminate the paper-based system. By digitalizing the investment process, the administration becomes more accessible to investors. The Algerian Agency for Investment Promotion plays a key role in this digital transformation, as it is directly responsible for managing investment projects, registering investors on the digital platform, and providing ongoing support, monitoring, and informational services. This truly embodies the principle of transparency in practice.

CONCLUSION:

This research paper, which examines the three core principles of investment within the framework of Investment Law No. 22/18, namely, the principles of investment freedom, equality, and transparency, clearly demonstrates the significant efforts made by the state to strike a balance between attracting investors and maintaining its sovereignty and security. Creating a favorable investment climate requires a combination of foresight and strategic decision-making, as it directly reflects the economic health of the country, which in turn supports the state's overall stability. The state's economic performance remains the ultimate measure of its success.

With regard to Law No. 22/18, the principles it enshrines are commendable, and if effectively implemented by the state in the future, they hold the potential to foster a favorable investment environment. The legislator has skillfully articulated these principles, preserving the term "investment freedom" while explicitly incorporating the principle of equality, replacing the previous notion of "fair treatment" found in Law No. 16/09 on Investment Promotion and Ordinance No. 03/01 on Investment Development. The principle of transparency,

⁴⁴ Law No. 22/08, dated May 14, 2022, concerning the establishment, organization, and powers of the High Authority for Transparency, Prevention, and Combating Corruption, Official Gazette No. 32.

⁴⁵ Nabil Wanas, *Digitization of the Investment Sector in Algeria in Light of Law 22-18*, Journal of Legal and Social Sciences, Zian Achour University, Djelfa, Algeria, Journal 08, Issue 03, 2023, p. 839.



addressed for the first time in the Investment Law, was particularly well emphasized, as it is intrinsically linked to the integrity, safety, and security of the country's institutions.

Undoubtedly, every principle has exceptions, and the investment principles are no exception. It can be concluded that the national legislator remains cautious with regard to foreign investors, as several provisions continue to impose restrictions on them, whether in terms of investment types, capital ownership, or the process of transferring investments to other foreign entities. Additionally, certain sectors, such as media and civil aviation, are reserved exclusively for Algerian nationals, further limiting foreign investment opportunities.

Regarding the principle of transparency, the legislator's approach in incorporating it within Investment Law No. 22/18 can be viewed as measured. Transparency is a crucial element, as it reinforces trust between investors and the state, which undoubtedly encourages investment in Algeria. The digital platform, which facilitates investment registration, monitoring, and support, serves as the most significant manifestation of this principle, offering continuous access to information for investors throughout the duration of their projects.

In conclusion, while the national legislator's efforts are commendable, the following recommendations are proposed to enhance the current framework:

- Intensify efforts to combat corruption by further reinforcing the principles of information dissemination and transparency, particularly within the administration that investors must engage with.
- Amend Investment Law No. 22/18 to clarify the features of the transparency principle more comprehensively and establish specific penalties for non-compliance within the investment sector, rather than relying solely on the general provisions of Corruption Law No. 06/01.
- Improve internet connectivity across the country to ensure more reliable access to the investor's digital platform, which serves as the direct and ongoing connection for investors throughout the entirety of their projects.

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