

# The Legal Framework of Investment Incentives in Light of Algerian Law

**Ben abbou Mohammed.**

Mohammed. benabbou @univ\_tebessa.dz

University of Tebessa

**Messaoudi Youssef**

University AHMED DRAIA of Adrar

you.messaoudi@univ-adrar.edu.dz

Received: 09/11/2025 Accepted: 02/02/2026 Published: 25/03/2026

## **Abstract**

This study examines the legal mechanisms designed to promote investment through the incentive schemes introduced by the Investment Law. These mechanisms aim to facilitate and simplify the stages and procedures involved in the investment process from its inception to completion. They constitute complementary mechanisms that are consistent with other legal guarantees.

Undoubtedly, Law No. 22-18 has restructured the legal framework governing investment incentives in Algeria with the objective of promoting investment and protecting the national economy in accordance with contemporary developments and modern economic trends.

**Keywords:** Investment Incentives; Investment Law No. 22-18; Legal Framework; Foreign Direct Investment (FDI); Algeria.

## **Introduction**

Freedom of investment was enshrined in Article 43 of the 2016 constitutional amendment. This provision is more developed and explicit compared to Article 37 of the 1996 Algerian Constitution (1). The principle of freedom of investment was further reaffirmed by the 2020 constitutional amendment. Article 61 states:

“Freedom of trade, investment, and entrepreneurship is guaranteed and exercised within the framework of the law.” (2)

The Algerian legislator enacted Law No. 22-18 relating to investment, which regulates (3) investment rules, investors’ rights and obligations, and the incentive schemes applicable to investments in economic activities aimed at producing goods and services carried out by natural or legal persons, whether national or foreign, resident or non-resident.

Accordingly, the question arises: Has the Algerian legislator succeeded in establishing an advanced legislative environment capable of regulating investment incentives through legal mechanisms able to attract foreign investment?

In light of the above, this paper highlights the legal aspects related to investment incentives, particularly as Algeria seeks to attract numerous foreign investments, through the following points:

### **First: The Concept of Investment**

Various definitions have been proposed to determine the concept of investment, as investment is a complex process involving both economic and legal dimensions. Therefore, it is necessary to examine the concept from the perspectives of economists and legal scholars.

#### **A. Definition of Investment According to Economists**

Some economists define investment as:

“A new addition to the productive assets existing in society with the aim of increasing output in subsequent periods.” (4)

Another group defines it as:

“The transfer by a foreign investor of financial resources, technology, and technical expertise in various fields to host countries.”

Others define investment as:

“A process of increasing a country’s financial assets through the movement of capital across borders and its entry into economic projects that meet various needs and generate financial profits.” (5)

#### **B. Definition of Investment According to Legal Scholars**

Legal scholars differ regarding a comprehensive definition of investment. Some define it as:

“The movement of capital from the investing country to the beneficiary country.”

Others define it as:

“The contribution of capital, regardless of its nature, to the production of goods or the provision of services for a specified period with the objective of making a profit.”

Another group of legal scholars defines investment as:

“The allocation of part of the foreign enterprise’s funds or technological expertise to activities carried out in geographical areas outside the borders of its home state.” (6)

The Algerian Investment Law defines investment in its first article as:

- **The acquisition of tangible or intangible assets** directly involved in goods and services production activities within the framework of creating new activities, expanding production capacities, or rehabilitating production facilities.
- **Participation in a company's capital** in the form of cash or in-kind contributions.
- **The transfer of activities from abroad.**

Article 5 of the Algerian Investment Law further clarifies the concept of the investor and specifies the forms of investments as follows:

- **Investor:** Any natural or legal person, whether national or foreign, resident or non-resident within the meaning of exchange regulations, who undertakes an investment in accordance with the provisions of this law.
- **Creation Investment:** Any investment undertaken to establish technical capital from scratch through the acquisition of assets aimed at creating a goods or services production activity.
- **Expansion Investment:** Any investment carried out with the objective of increasing the capacity for producing goods or services by acquiring new means of production in addition to those already existing.
- **Rehabilitation Investment:** Any investment involving the acquisition of goods or services intended to upgrade existing equipment and facilities in order to overcome technological obsolescence or wear and tear due to age, thereby increasing productivity or reviving an activity that has been suspended for at least three (03) years.

From the foregoing definitions, it can be observed that investment takes various forms, the most important of which are the following:

### **1. Direct and Indirect Investment**

In **direct investment**, the investor possesses actual and effective decision-making authority within the enterprise. In contrast, in indirect investment, the investor contributes to the company's capital without exercising any influence over its management or administration.

### **2. Industrial and Commercial Investment**

Both are forms of investment, but they differ in purpose. Commercial investment is primarily export-oriented, whereas industrial investment is based on production activities.

### **3. Foreign and Domestic Investment**

This classification depends on the nationality or residence of the investor. An investment is considered foreign when it is carried out in a country by a person possessing foreign nationality. Domestic investment, on the other hand, implies linking the investment to the national economy of a particular state.

#### **Second: Definition of Investment Incentives**

Investment incentives refer to tax and customs advantages, such as tax exemptions or reductions, as well as reductions in customs duties in cases of exports or imports of raw materials directly intended to encourage investment. This framework also includes tax advantages related to employment. The objective of these facilities and exemptions is to support and promote investment in general, whether domestic or foreign, in Algeria.

Incentives may be defined as:

**"A set of measures and arrangements with an assessable economic value granted by the state to investors, whether national or foreign, in order to achieve specific objectives, such as encouraging individuals or companies to undertake investment activities, directing investments toward underinvested sectors, or promoting regional balance by granting investment incentives to less attractive areas."**

#### **Objectives of Tax Incentives (10)**

The objectives of tax incentives include the following:

- a. **Reducing the tax burden.**
- b. **Encouraging projects that create employment opportunities.**
- c. **Increasing state treasury revenues.**

#### **Third: Investment Incentive Schemes**

The current Investment Law (22-18) establishes three categories of incentive schemes, namely:

- a. **The Incentive Scheme for Priority Sectors (Sectoral Scheme).**
- b. **The Incentive Scheme for Areas of Special Importance to the State (Regional Scheme).**
- c. **The Incentive Scheme for Structuring Investments (Structuring Investment Scheme).**

The Algerian legislator has established procedures for benefiting from the advantages provided under Law No. 22-18. These procedures include the registration of investments in order to obtain incentives related to the implementation phase, as well as the preparation of a commencement-of-works inspection report to qualify for incentives during the operational phase (11).

These schemes are examined in detail as follows:

#### **A. Incentive Scheme for Priority Sectors (Sectoral Scheme)**

(Articles 26 and 27 of Investment Law No. 22-18)

Article 26 specifies the sectors of activity eligible for the benefits provided under the Sectoral Scheme, namely:

- Mining and quarrying;
- Agriculture;
- Industry;
- Services and tourism;
- New and renewable energies;
- Knowledge economy and information and communication technologies (ICT).

Investments undertaken in these sectors benefit, in addition to the tax and customs incentives provided under general legislation, from the following advantages:

#### **During the Implementation Phase**

1. Exemption from customs duties.
2. Exemption from Value Added Tax (VAT).
3. Exemption from property transfer duties.
4. Exemption from registration duties applicable to company incorporation contracts.
5. Exemption from land registration fees.
6. Exemption from property tax on real estate assets involved in the investment project for a period of ten (10) years.

#### **During the Operational Phase**

For a period ranging from three (03) to five (05) years from the date on which operations commence, investors benefit from:

1. Exemption from Corporate Income Tax (CIT).
2. Exemption from the Professional Activity Tax (PAT).

#### **B. Incentive Scheme for Areas of Special Importance to the State (Regional Scheme)**

Investments carried out in the following areas are eligible for the **Regional Scheme**:

- Areas located in the High Plateaus, the South, and the Far South;
- Areas whose development requires special support from the State;
- Areas endowed with natural resources possessing significant value-added potential.

Article 29 of Law No. 22-18 specifies the advantages granted under the Regional Scheme as follows:

#### **During the Implementation Phase**

Investments benefit from the same incentives provided under Article 27 of Investment Law No. 22-18.

#### **During the Operational Phase**

For a period ranging from five (05) to ten (10) years from the date operations commence, investors are entitled to:

1. Exemption from **Corporate Income Tax (CIT)**.
2. Exemption from the **Professional Activity Tax (PAT)**.

#### **C. Incentive Scheme for Structuring Investments (Structuring Investment Scheme)**

(Article 30 of Investment Law No. 22-18)

Structuring investments are those characterized by a high capacity to create wealth and generate employment opportunities, thereby enhancing the attractiveness of the national territory and contributing to sustainable development (12).

Article 31 of Investment Law No. 22-18 establishes the advantages granted under this scheme as follows:

#### **During the Implementation Phase**

Investors benefit from the same incentives provided under Article 27 above.

#### **During the Operational Phase**

For a period ranging from five (05) to ten (10) years, structuring investments are granted:

1. Exemption from **Corporate Income Tax (CIT)**.
2. Exemption from the **Professional Activity Tax (PAT)**.

It should be noted that where several incentives of the same nature are provided under existing legislation in addition to those stipulated by the Investment Law, the investor shall benefit from the most advantageous incentive (13). It is also important to simplify the administrative procedures required to obtain economic land intended for investment projects (14). Furthermore, transparency should be ensured in granting investment incentives and directing them to eligible investors, while monitoring the progress of their projects. These measures should also be supported by comprehensive service infrastructure across various regions and sectors (15).

#### **Conclusion**

In conclusion, it may be argued that the Algerian legislator has succeeded in establishing legal rules and legislative guarantees aimed at encouraging both domestic and foreign investments

alike, while protecting the rights and obligations of investors, whether residents or non-residents. This is clearly reflected in the tax and customs exemptions and reductions introduced under the new incentive schemes, namely the Sectoral Scheme, the Regional Scheme, and the Structuring Investment Scheme.

These measures are expected to contribute to economic stability in both the industrial and agricultural sectors, thereby generating employment opportunities, increasing wage levels, and enhancing workforce training. Moreover, investments undertaken under these incentive schemes facilitate the transfer of technology to the host country, thus contributing to its economic development.

### Footnotes:

1. See: Messaoudi Youcef, *The Constitutional Protection of the Freedoms of Investment and Competition in the Maghreb States*, Constitutional Council Journal, No. 09, 2017, p. 39.
2. See: Presidential Decree No. 20-424 of 30 December 2020 concerning the promulgation of the constitutional amendment approved by the referendum of 1 November 2020, Official Gazette of the People's Democratic Republic of Algeria, No. 82, 2020.
3. Official Gazette of the People's Democratic Republic of Algeria, No. 50, 2022.
4. Ghassan Obeid Mohammed, *Foreign Real Estate Investment Contract*, Halabi Legal Publications, 1st ed., Lebanon, 2015, p. 16.
5. Meftah Amer Seif Al-Nasr, *Foreign Investments: Obstacles and Legal Guarantees*, Halabi Legal Publications, 1st ed., Lebanon, 2016, p. 15.
6. Ghassan Obeid Mohammed, *op. cit.*, p. 20.
7. Ghassan Obeid Mohammed, *op. cit.*, p. 33.
8. Nabih Ounoughi, "The System of Incentives and Facilities Granted to Investment under Algerian Law," *Journal of Law and Human Sciences*, University of Djelfa, No. 3, November 2019, p. 107.
9. Laghnaj Mbareka, *Ijtihad Journal for Legal and Economic Studies*, University of Tamanrasset, No. 03, 2023, p. 260.
10. See: Executive Decree No. 22-301 of 8 September 2022 determining the list of sites belonging to areas accorded special importance by the State in the field of investment, *Official Gazette of the People's Democratic Republic of Algeria*, No. 60, 2022.
11. See: Article 28 of Investment Law No. 22-18.
12. See: Executive Decree No. 22-302 of 8 September 2022 determining the qualification criteria for structuring investments, *Official Gazette of the People's Democratic Republic of Algeria*, No. 60, 2022.
13. See: Article 35 of Investment Law No. 22-18.
14. Kandouz Fatiha, "Incentive Schemes and Eligibility Conditions for Benefiting from Investment Advantages," *Journal of Law and Political Sciences*, University of Khenchela, No. 01, 2023, p. 766.
15. Laghnaj Mbareka, *op. cit.*, p. 266.