

Foreign investment guarantees in Algeria in light of the new investment law No. 22-18.

الضمانات القانونية الممنوحة للمستثمر الأجنبي في الجزائر على ضوء قانون

الاستثمار الجديد رقم 18-22

Samia Khouatra ¹

¹Faculty of Law and Political Science, Legal mechanisms for sustainable development, University of Boumerdes (Algeria), s.khouatra@univ-boumerdes.dz

Received: 13/03/2023

Published: June/2023

الملخص :

تكتسي الحماية القانونية للاستثمار والمستثمرين أهمية بالغة في جذب المستثمر خاصة الأجنبي من خلال تحسين الإطار القانوني والمؤسسي للاستثمار، وتضمينه مجموعة من المزايا والحوافز الممنوحة من طرف الدولة المضيفة، إلا أن تحقيق ذلك لا بد أن يتم وفقا لإستراتيجية وسياسة استثمارية هادفة تمتاز بالشمولية والوضوح في تحديد الآثار الحالية والمستقبلية، لذلك عمد المشرع الجزائري إلى إصدار العديد من النصوص القانونية المشجعة للاستثمار آخرها القانون 18-22 المتضمن قانون الإستثمار الجديد والذي يهدف لإعادة هيكلة الأنظمة التحفيزية للاستثمار وتوجيهها للقطاعات ذات الأولوية، مع رفع العراقيل عن المشاريع الاستثمارية، وتعزيز الضمانات والحماية المقررة لرأس المال الاجنبي.

الكلمات المفتاحية: الضمانات، الحماية القانونية، الاستثمار الاجنبي، قانون الاستثمار

Abstract:

The improvement of the institutional and legal framework for investment, along with the inclusion of several benefits and incentives provided by the host country, will help to attract investors, particularly foreign ones, and will help to predict present and future effects. the Algerian legislator issued several legal texts encouraging investment, the most recent of which was Law 18-22, which includes the new investment law, which aims to restructure the incentive systems for investment and direct them to priority sectors given the removal of impediments to investment projects and the improvement of the assurances and protections provided for foreign capital.

Keywords: Guarantees, Legal Protection, Foreign Investment, Investment Law 22-18.

Introduction:

Investment is critical to the developing economy of any given country since it derives the majority of its dynamic components of growth, development, and structural changes. The most important investment programs are recent legislative advances in investment law, which play an important role in recruiting foreign investors. Governments compete fiercely in providing incentives to attract foreign investment because of the benefits it brings, such as capital, technology, opening markets, and, most crucially, employment opportunities. Perhaps this is what prompted us to research the issue of guarantees and the incentives provided by the investment legislation, which is one of the most important engines for the development and promotion of investment by promoting integration with the world to supplement the Omani economy, transfer technology and knowledge, open markets to achieve diversification and financial sustainability, in addition to creating productive and rewarding job opportunities for the people through innovative initiatives and adopting an approach to attract investment and transform it into projects and services. Along with contributing to building local and international relations, with value-added on the one hand, involving the public and private sectors, the Algerian legislator issued a number of legislative texts encouraging investment. The most recent of which was Law 18-22, which includes the new investment law, which aims to restructure the incentive systems for investment and direct them to priority sectors given the removal of impediments to investment projects and the improvement of the assurances and protections provided for foreign capital.

Research Rationale: The improvement of the institutional and legal framework for investment, along with the inclusion of a number of benefits and incentives provided by the host country, will help to attract investors, particularly foreign ones, and will help to predict present and future effects.

Research question: The study's problem can be summed up by addressing the following question, particularly in examining the laws, rules, and regulations that restrict dealing in the investment sector in Algeria and are largely related to benefits: What are the established legal protections Algeria has, and how much do guarantees and incentives help to promote and attract in international investment?

Research Methodology: When researching the legal framework governing capital investments in the State of Algeria, we must adhere to the legislative texts' analytical and inductive approaches while elaborating some of the study's key topics through the descriptive method.

Research Structure: The study was divided into three main axes:

The first axis: The well-established principles for the promotion and support of foreign investment in Algerian law

The second axis: Ensuring benefit from financial benefits and intellectual property rights

The third axis: The role of administrative bodies and judicial authorities in protecting foreign investors

In view of the global competition among nations to entice foreign investment, we will demonstrate through the research's conclusion that the investment law, which ensures the required legal protection for the foreign investor, increases the promotion of investment.

1-The established principles for the promotion and support of foreign investment in Law 18-22

1.1- The principle of freedom of investment:

According to the text of Article 3 of Law 22-18 relating to investment, the principle of freedom of investment is one of the principles incorporated in Algerian law: “This law establishes the following principles:

- Freedom of investment: every natural or legal person, nationally whether he or she is a foreigner, resident or non-resident, who wishes to invest, is free to choose their investment in light of respect for the legislation and regulation in force,....”

We deduce from this text that the Algerian legislator granted the foreign investor complete freedom in the exercise of his project investment activities without restriction or hindrance, but he stipulated that this practice be legal and compliant with Republic laws, which is thought to be the greatest assurance and incentive to attract foreign investors.

1.2. The principle of transparency and equality in dealing with investments:

Article 3 of the same law stipulates that: “This law establishes the following principles: ... transparency and equality in dealing with investments.” This guarantee indicates non-discrimination in treatment between investors, whether they are Algerian or non-Algerian. The investment-receiving country directly grants this guarantee to the foreign investor, so the treatment of the host country to the foreign investor is the same as that of the national investor, which arranges fair and just treatment without any discrimination between them in benefiting from investment advantages and incentives, as well as in bearing obligations and enjoying rights, without a comparison between the two parties before the administrative or judicial authorities. So the principle of equality and transparency is one of the guarantees granted by the Algerian state to the foreign investor. Nonetheless, in the event that Algeria has commercial agreements with it, preferential transactions may arise for its investors, and because it is a pivotal country in international relations, it has economic and trade agreements with the countries of the world, in particular the Arab world. It was an active element in issuing the Amman Convention ¹on Commercial Arbitration of 1987.

1.3. Legal and organizational stability as a guarantee for foreign investment:

Within the scope of exercising complete sovereignty, the state has the power to change, supplement, and even repeal national legislation as necessary by the country's supreme interest or economic necessity. However, this freedom conflicts with the interest of the foreign investor, who has the right to be assured of his investments ² This will only be achieved within the framework of the stability of investment laws and regulations, a principle endorsed by the Algerian legislator in the text of Article 13 of Law 18-22: “The effects resulting from the revision or cancellation of this law that may occur in the future do not apply to the investment made within the framework of this law; unless the investor explicitly requests that.” On this basis, we can say that the amendment or cancellation of the legal and regulatory texts that govern the implemented foreign investments does not affect the latter, because the new legislation does not apply to them unless they serve them or the investor explicitly requests their implementation. upon the investment project, which means that the

investor may gain from the new legislation if it provides additional benefits for the investment project that was implemented under the previous legislation. Foreign investment is ensured by the stability and relative continuity of laws. The insecurity and continuity of the legal and regulatory systems over a longer length of time are sufficient to undermine investor confidence in that country's laws.

2-Tilte Ensuring the benefit of financial benefits and intellectual property rights

Considering investment only recognizes profit, financial assurances are regarded as one of the most crucial aspects for attracting international investors. These guarantees are embodied in the capital transfer or exemption systems. They may be related to the compensation component in the event of damage caused by exploitation or expropriation for public benefit.

The host country employs incentive structures to persuade foreign investors to pursue specific objectives, the most significant of which is to encourage foreign investment, particularly in priority and value-added sectors, while also guaranteeing balanced regional growth. One of the most important incentive systems stipulated in the new investment law 22-18 in the text Article 6: "Investment projects capable of benefiting from the incentive systems stipulated in this law may benefit from land belonging to the private property of the state..." Among the incentive systems that help him in the completion of his investment project is the incentive system according to regions, sectors, or according to structured investments.

2.1- The Exemption System:

Article 7 of Law 18-22 stipulates that: "Foreign in-kind contributions that fall exclusively within the framework of transferring activities from abroad are exempted from the procedures of foreign trade and bank settlement, new services that are included in the foreign in-kind shares." Among the most important exemptions stipulated in Algerian law are the following:

- Exemption from customs duties with regard to imported goods that are directly involved in realizing the investment.
- Exemption from value-added tax with regard to imported or locally acquired goods and services that are directly involved in the realization of the investment.
- Exemption from paying the right to transfer ownership in exchange for compensation and fees for real estate advertising for all real estate acquisitions made within the framework of the concerned investment.
- Exemption from registration rights imposed with regard to articles of incorporation of companies and capital increases.
- Exemption from registration rights, fees for real estate advertising, and the sums of national property that include the right of concession on built and unbuilt real estate intended for the realization of investment projects.

Exemption from real estate tax on real estate properties that fall within the framework of investment for a period of ten (10) years, starting from the date of acquisition.

2.2- Freedom of transfer of capital:

The following is how the text of Article 8 defines the freedom of capital transfer:

“You shall benefit from guaranteeing the transfer of the investor’s capital and the proceeds resulting from it, the investments made based on shares in the capital in the form of cash shares imported through the banking channel, and denominated in a freely transferable currency.” They are regularly priced by the Bank of Algeria, and they are assigned to them in favor of a value equal to or greater than the minimum limits determined according to the total cost of the project. Additionally, accepted as external shares, the process of reinvestment in the capital of interest and dividends is authorized to be transferable in accordance with the legislation and regulation in force. The transfer guarantee and the limits apply. The minimum mentioned in the first paragraph above is on in-kind shares that are completed according to the forms stipulated in the applicable legislation, provided that their source is external and that they are subject to evaluation according to the rules and procedures governing the establishment of companies. The transfer guarantee stipulated in the first paragraph above also includes the real income. The net proceeds from the assignment and liquidation of investments of foreign origin, even if their amount exceeds the initially invested capital. The modalities for applying the provisions of this article, by regulation.”

2.3- Guarantee of compensation in the event of expropriation:

Article 10 of Law 22-18 stipulates the following: “The investment made may not be the subject of harnessing by the administration except in the cases stipulated in the law, and the harnessing entails fair and equitable compensation in accordance with the legislation in force.”

There is absolutely no speculation that the foreign investor invests his money in the receiving country, and thus brings with his property or obtains it in the country in which he invests it, so he fears that it will be taken from him for any reason³ and that the state is the owner of power and sovereignty, and it has the right to seize ownership of the investment project in accordance with the organizing texts. To expropriate property in the interest of the public interest, provided that this is within the framework of the law, and as a result, the foreign investor will be compensated just and equitably.

Intellectual property refers to a set of rights, such as patent rights, copyright, and trademarks, that allow people to earn recognition and legal protection. Intellectual property rights are unique in that they include both the moral component, which relates to the owner's personal attachment to his intellectual rights, and the financial component, which is embodied in the right of monopoly, exploitation, and the introduction of all legal actions that the owner of the intellectual right deems appropriate for him under strict legal protection.

The protection of intellectual property and investment are inextricably linked. If the protection system is strong and effective and provides adequate protection for the investor, it encourages attracting foreign investment; however, if the protection system is weak, it leads to a high possibility of imitation and infringement of intellectual property rights, making that country less appealing for investment, as the Algerian legislator baptized in the new investment law 18-22 and through the text of Article 9 of it, which stipulates that: “The state guarantees the protection of intellectual property rights in accordance with the applicable legislation.” Thus, the legislator recognized the legal protection of intellectual property rights and made it at the heart of The powers of the state through the various mechanisms that it has, beginning with the legislative texts, to the end of the administrative or judicial bodies that

ensure the consolidation and embodiment of this protection.

3- The role of administrative bodies and judicial authorities in protecting foreign investors.

3.1. The institutional framework for investment follow-up and promotion:

In order to provide an institutional framework for investment with distinct responsibilities based on the uniqueness of each of the following agencies, the Algerian legislature regulated, through the investment law, the activity of the authorities and institutions tasked with monitoring investment in Algeria.

A/ The National Investment Council: The National Investment Council was established according to the text of Article 18 of Ordinance 01-03 related to investment development. The Council has an important and effective role in promoting and promoting investment, as it proposes strategies and priorities for investment development, and oversees their implementation by adapting them to the changes registered through Procedures stimulating investment, and an annual evaluation report is submitted to the President of the Republic, and among the proposals related to the development of new benefits titled are the proposals taken by the National Council for Investment through the new powers granted to it in the application of the supplementary law, which is represented in: approval of the list of activities and goods excluded from benefits as well as amendments, and all Updates: Approval of criteria for defining projects that concern the national economy, neutralizing a list of expenditures, identifying areas that can benefit from incentive systems, and so on.

B/ The Algerian Agency for Investment Promotion:

The actual and responsible party for processing and reviewing investment paperwork is the Agency. It was given the name of the National Agency for Investment Development in accordance with the text of Article 6 of Ordinance 01-03 and Article 26 of Law 16-09. It is a public administrative institution with moral personality and financial independence. Some of its most significant responsibilities include promoting and evaluating an investment in Algeria and abroad, assisting investors in completing investment-related procedures, registering and processing investment files, monitoring the status of investment projects, managing authorized or registered benefits, and other tasks that are not listed here.

The Investment Law gives the agency several key capabilities, one of which may be the registration of investments, which is very different from the previous declaration process. The previous investment laws, which represented a preliminary procedure by which the investor was allowed access to the market, as the prior authorization system represented the simplest control system practiced by the public authorities over-investment in exchange for the license or accreditation system⁴

3.2. Judicial protection guaranteed to the foreign investor

As a sign of his commitment to encouraging unafraid and unreserved direct foreign investment into Algeria, the Algerian lawmaker intends to give the tools of protection required to uphold the rights of foreign investors. The foreign investor needs more legal and regulatory guarantees⁵, foremost of which, from our point of view, are the judicial guarantees that have become a requirement. It is urgent for the investor, as whenever there is confidence in the Algerian judiciary from the national courts, it will have priority in considering the investment dispute from foreign courts. International arbitration is also

Foreign investment guarantees in Algeria in light of the new investment law N° 22-18

Samia Khouatra

considered one of the modern means of settling investment disputes, which will be explained as follows:

A/ The national judiciary: The judiciary is undoubtedly the first tool used by anyone who feels their rights have been violated by an administration, and Article 12 of Law 18-22 guarantees this right to investors, whether they are natural or legal persons: “In addition to the provisions of Article 11 above, Any dispute resulting from the application of the provisions of this law between the foreign investor and the Algerian state caused by the investor or due to a measure taken by the Algerian state against him shall be subject to the competent Algerian judicial authorities, unless there are bilateral or multilateral agreements ratified by the Algerian state whose provisions relate to reconciliation, mediation, and arbitration, or the conclusion of an agreement between the agency mentioned in Article 18 below, which acts in the name of the state and the investor, allowing the parties to resort to arbitration.

The right of the foreign investor to seek protection through the legal system is guaranteed by the Algerian Investment Law, which is one of the most significant concepts that the legislator accepted in the application. This text leads us to this conclusion. The principle of national sovereignty by preserving its right to settle disputes that occur between it and investors, and the Algerian Investment Law refers disputes primarily to the national judiciary and thus is in line with the general rule Article 41 of the Code of Civil and Administrative Procedures: “It is permissible for every foreigner, even if he is not residing in Algeria, to appear before the Algerian judicial authorities, to carry out the obligations he contracted in Algeria with Algerians. It is also permissible to summon him to appear before the Algerian judicial authorities regarding obligations he contracted with Algerians in a foreign country.” Through this text, we note that the Algerian legislator extended the jurisdiction of the national judiciary to include obligations that took place outside Algerian soil when one of the parties to them was Algerian, and this is conclusive evidence. The Algerian state adheres to the principle of national sovereignty over its territory by applying Algerian law through the national judiciary to every obligation one of those parties is foreign and to all obligations created by Algerian citizens even if they are outside the national territory without leaving an outlet for deviating from its sovereignty.

Based on the aforementioned, we conclude that the principle of jurisdiction to consider foreign investment disputes is for the Algerian judicial authorities, whether administrative, civil, or even criminal. They are the only ones competent to resolve investment disputes that arise between the foreign investor and the Algerian state represented by its various institutions, when this dispute is due to this investor or due to any decision or position taken by the Algerian authority towards him, unless there is a special agreement to the contrary, and therefore there are two restrictions through which the jurisdiction of national courts can be excluded and resort to arbitration. The first restriction is related to the existence of a bilateral or multilateral agreement ratified by Algeria that includes resorting to reconciliation Or arbitration to settle investment-related disputes. The second restriction is related to the existence of a special agreement between the Algerian state and the foreign investor, which includes the condition of resorting to reconciliation or international arbitration in the event of a future dispute or dispute related to the realization and exploitation of foreign investments or allows the parties after the dispute to resort to arbitration.

B/ The arbitration system as a mechanism for settling foreign investment disputes

Foreign investment guarantees in Algeria in light of the new investment law N° 22-18

Samia Khouatra

Law 09-08 outlined the requirements, including those pertaining to the legitimacy of the arbitration decision as well as those pertaining to the legality of the arbitration agreement, the establishment of the arbitral tribunal, and the procedures that were followed prior to it⁶, which the arbitration system enjoys as a mechanism to achieve transparency and integrity⁷.

1- The legitimacy of the arbitration agreement is defined as the agreement between the contracting parties to submit any problems that have arisen or may arise between them to the arbitration system and to forego using traditional courts as a last resort. This agreement takes place either in the form of an arbitration clause or an arbitration agreement. "It is a clause included in the terms of the basic contract, and it precedes the emergence of the dispute between the contracting parties and its role is preventive and regulatory in which the parties anticipate the emergence of the dispute that will be resolved through arbitration, and through which they clarify the general framework for this arbitration, while the arbitration party "compromis d'arbitrage" which is considered a contract subsequent to the main contract, separate from it that arises with the emergence of the dispute, in which the parties declare their desire to take arbitration as a means to resolve the dispute, and through it, they enact the procedural and substantive rules for it, and in order for the arbitration agreement to be completed in its correct form and to arrange all its effects, formal and other conditions must be met.ⁱⁱ The Algerian legislative stipulated objectivity in the first paragraph of Article 1008 of Law 08-09 and made it a criterion of proof. As for the arbitration agreement, it takes place in writing, according to the text of Article 1012 of the same law, and it appears that the legislator made writing a condition of proof with regard to the arbitration clause and decided to nullify it in the event of its failure. As for the arbitration agreement, writing is a condition for validity and not proof, and the aim is to confirm the existence of the arbitration agreement, and writing is the appropriate means to prove its existence⁸

The requirement of accurate consent and that this consent is based on a possible and genuine place and based on a justifiable purpose is both objective requirements for the arbitration agreement's validity⁹. The subject matter of the dispute, especially the law applicable to the basic contract, or Algerian law.

2. Conditions for the proper formation of the arbitral tribunal and its procedures: It goes without saying that the arbitral tribunal is important to the arbitration system as a whole, especially to its arbitrators, in terms of their choice, because the selection of the members of the arbitration tribunal has an impact on the course of the arbitration case, in order for it to succeed and end with the issuance of this arbitral decision on the one hand, On the other hand, the integrity of the procedures of this case is one of the conditions that the execution judge must examine and ensure their compliance with the requirements of the arbitration agreement before issuing the order to implement the arbitral award. Accordingly, we discuss the conditions related to the arbitral tribunal, as the text of Article 1015 of Law 08-09 requires that it be The arbitration panel is properly formed, and it is so if the arbitrator or arbitrators accept the task entrusted to them, and the arbitration panel should be made up of one person, i.e. a single arbitrator or several arbitrators, provided that the number is odd in the case of plurality, and this is what is stipulated in Article 1017 of Law 08- 09.

Furthermore, it is additionally required that the arbitrator enjoy the capacity, that he not be exposed to an objection that leads to his interdiction, and that he not be deprived of his civil rights, according to the text of Article 1014/1, and there is nothing to prevent the parties

Foreign investment guarantees in Algeria in light of the new investment law N° 22-18
Samia Khouatra

from appointing a legal person such as the arbitral institutions, who in turn appoints one or more members of its members as an arbitrator in accordance with the provisions of Article 1014/2, and the arbitrator must announce his acceptance of the assignment in writing and he must disclose any circumstances or circumstances that question his independence, and he shall not assume his assignment unless the parties accept that after knowing what he announced according to the provisions of Article 1015 of the same the law, and it should be noted that the appointment of arbitrators was entrusted by the legislator in accordance with the text of Article 1041 to the parties directly or through the arbitration system, and if there was difficulty in appointment, the task was entrusted to the president of the competent court, and the president of the court of Algeria if the arbitration was abroad and the parties chose the Algerian law to apply, and it is The president of the court in whose jurisdiction the arbitration falls if the arbitration takes place in Algeria.

3. The issuance of the arbitral award and its implementation: Based on the terms of Article 1026 of Law 08-09, the majority is necessary to issue the arbitral award. No issues emerge in the event of a single arbitrator, but in the case of a plurality, the legislature overcame an issue by allowing each arbitrator to participate individually, as was already mentioned. This is to give preference to the decision, and writing is a condition for the actual existence of the arbitral award because proving its existence is done by submitting its original or official copies of it, and because its issuance is verbal, and the description of the “arbitration award” with its implications is not achieved, and the arbitrators have to present the arguments and evidence that they relied on in their case. Their issuance of the arbitral decision and these pieces of evidence and grounds may contribute to the optional execution without the need for the judiciary if the party against whom the judgment is imposed is convinced of it, and the justification of the arbitral decision facilitates the task of the execution judge in recognizing and implementing the arbitral decision and the importance of the condition of causation, as it was imposed by the Algerian legislator in the text of Article 1027 He also made the lack of reasoning or contradiction in it a case of an appeal against the decision of recognition and execution.

In order for the arbitration decision to include the order of execution, the judgment debtor must file a case according to the usual methods before the court in whose jurisdiction the execution is located ¹⁰ in Algeria. It is required that the application for execution be submitted to the competent authority, with a set of documents stipulated in Article 1052 of Law 08-09. And Article 1035/1 of Law 08-09 stipulates that: “The final, partial or preparatory arbitral award shall be enforceable by order of the president of the court within whose jurisdiction it was issued....” Its ruling shall be a preliminary judgment subject to appeal before The Judicial Council to which it belongs according to the text of Article 1035/2, and it is equal that the arbitration decision is issued by a free arbitration or institutional arbitration, and whether it was issued by an individual or by several arbitrators, and the appeal against the ruling of the executive order issued by the president of the competent court is carried out according to the methods of appeal specified by Law 08 -09, as for the local jurisdiction, a distinction must be made between two cases, according to the presence of the arbitral tribunal’s headquarters, the source of which is the arbitral decision. The arbitration decision is within its jurisdiction, that is, the jurisdiction devolves to the court in whose jurisdiction the arbitral tribunal is located, the source of which is the international commercial arbitral award.

Foreign investment guarantees in Algeria in light of the new investment law N° 22-18

Samia Khouatra

The court within whose jurisdiction the execution of the decision falls, i.e. the court competent to issue the executive order is the court of the place or jurisdiction of execution.

Similarly to national judicial decisions, the arbitration decision is endowed with the executive formula and gains executive power¹¹, and the legislator has stipulated within Article 1056 that it is not permissible to appeal against the order recognizing and implementing the arbitral award, except in specific exceptional cases exclusively within the aforementioned article. As a general rule, it is not permissible to appeal the decision of the President of the Court issued to grant the execution order to the arbitral decision in any way of appeal, and with the exception, if one of the cases of Article 1056 is fulfilled, then it is permissible to appeal against the execution order by appeal, but the text of Article 1058/2 referred to one case. It is the case of the invalidity of the arbitral award, which necessitates the force of law to challenge the enforcement order, and if the latter is not decided, the court abandons the ruling on the enforcement order.

Conclusion:

Algeria offers favorable conditions for both local and international investment. Its unique geographic position, which looks out over regional and international land and sea lanes, creates opportunities for investment and free commerce. For this reason, Algerian authorities have been implementing more programs and reforms, the most significant of which are likely the recently developed laws related to investment. Their goal is to create an appropriate investment climate by luring in more investment flows with the intention of enhancing economic growth rates, creating new job opportunities, developing technology, and other objectives.

Results of the study: We came to a set of conclusions from the thorough analysis of this research, which we may sum up as follows:

- Foreign investment is the primary generator of economic activity since it is directly tied to the generation of foreign capital and boosting the national economy's capacities for output, innovation, and development. It is regarded as a source of obtaining foreign capital, which is a fundamental pillar of any development program, as well as a source of transferring modern and advanced technological technologies to host countries and establishing numerous and diverse relationships between investors and host countries.
- The amendment of investment laws tends to work to promote foreign investments, however, it is insufficient on its own to bring about significant changes in the file of attracting investment unless it is compatible with structural policies and programs that affect all elements of intensive production, from the transfer of modest oil revenues to advanced economic and social structures that provide them with the necessary bases to launch them towards development. sustainable.
- According to worldwide and regional indices used to measure the investment climate in recent years, Algeria has a sufficient investment climate to attract foreign investors, ranking ninth in terms of the number of foreign investment projects received during the fiscal year 2021.

Research Recommendations:

In conclusion, we provide a few recommendations based on the minister's announcement and encourage both national and foreign investments to take advantage of the protections and benefits provided by the new investment law.

- activating the new investment law and ensuring that it is characterized by transparency, stability, and clarity in order to increase trust between the foreign investor and the host nation.

Foreign investment guarantees in Algeria in light of the new investment law N° 22-18
Samia Khouatra

- Focusing on streamlining the processes for getting investment permits and interacting with government officials more.
- Setting up a strong legal framework that is autonomous and capable of carrying out agreements in order to address conflicts that may arise between an investor and the host nation amicably through arbitration, mediation, conciliation, and other peaceful means.

Providing investment governance frameworks through legal mechanisms and institutional structures in accordance with international principles.

Citations:

1-The Amman Convention on Commercial Arbitration of 1987 aims to achieve the unity of legal and procedural rules for arbitration in everything related to disputes arising from commercial relations and contracts between Arab countries. It entered into force on June 27, 1992, and Algeria was among the signatories to it in Amman, the Hashemite Jordanian capital. See: d. Muzaffar Jaber Ibrahim Al-Rawi, Amman Arab Convention on Commercial Arbitration for the year 1987, Wael Publishing House, first edition, Amman, Jordan, 2012.

2- Legal stability is a basic driver for investment, as well as whether or not countries are transparent affects the destination of investments, see:

-Wei .S. (2000a). How taxing is corruption on international investors -Review. of economics and statistics.

3--The institutional system of a country, respect for laws, transparency, assuming responsibilities, and good governance lead to respect for laws and increase the ability of countries to attract investments, see:

-Naude. A.W.A. and Krugell. W.F.. (2007) - Investigating. Geography and institutions as determinants of Foreign Direct Investment in Africa using panel Data.Applied economic.

4- Jamila Kerioudj, Leila Lahyani, Agricultural Investment in Algeria between the Bet of Economic Development and the Challenges of Reality, Algerian Journal of Legal and Political Sciences, Volume: 59, Issue: 04, Year: 2022, Page: 191-209.

5- Amiroush Fethi, The Legal Framework for Investment under Ordinance 16-09, Algerian Journal of Legal, Political and Economic Sciences, Volume: 57, Issue: 02, Year: 2020, Page: 562-576.

6- Bashar Muhammad al-Assad, Investment Contracts in Private International Relations, Al-Jali Publications, first edition, Beirut, Lebanon, 2006, p. 354.

7- See Article 1 with all its clauses a-b-c-d of the Franco-Algerian Convention relating to the implementation of judgments issued pursuant to Order 65-194 of 07/29/1965

8- Jean-George Betto & Marc Henry; New trends in international arbitration, R.D.A.I, N°3, 2006, P371.

9 -The CCI International Chamber of Commerce system "did not talk about the conditions for the validity of the arbitration agreement, but Article 8 indicates that" when one of the parties insists on the invalidity of the arbitration agreement, the court must verify the existence of this agreement and rule to complete the arbitration, and the arbitrator issues all decisions related to his competence.

10- According to the text of Article 1443 of the new French law, which also requires writing under penalty of nullity, so the arbitration clause shall be concluded in writing, in the original agreement or a document referred to it, i.e. if the clause is not explicitly included, but rather through a referral, "the two agreements that carry this clause must provide for least there is."

11- This is what was stipulated in Article 5 of the New York Convention 1958, paragraph 1, clause A - "...according to the law to which the parties have been subjected...".

12

³-Okasha Mohamed Abd el Ali, Civil and Commercial Procedures, without edition, University House, Beirut, in 1986, pg. 415.

Foreign investment guarantees in Algeria in light of the new investment law N° 22-18
Samia Khouatra

13- The arbitration award may be issued against the host country, causing it to incur expenses represented in the financial compensations granted to the foreign investor, and deducted from the state budget, see:

Fages Fabrice; The confidentiality of arbitration tested by financial transparency, review of arbitration, 2003, p5.
