# Indicators of good governance in the new legal framework regulating investment in Algeria: An analytical study

**CHOHRA Mohamed [1*], KENDIL Hicham [2]**

[1] Higher National School of Management – ENSM - Algeria, m.chohra@ensmanagement.edu.dz,

[2] Higher National School of Management – ENSM - Algeria, h.kendil@ensmanagement.edu.dz,

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**Abstract:**

Investment regulations are critical in promoting and ensuring good governance within the regulatory and legislative framework. This analytical study highlights the governance indicators in the landscape of the updated legal framework for investment in Algeria. This study enables researchers, managers, investors, and policymakers to understand the impact of the recently implemented regulatory and legislative governing investment in Algeria on the Governance principles. Additionally, it enables them to distinguish the measures and implementing mechanisms established in order to apply those principles to the management practices of administration and the various investment organizations and organs in Algeria.

**Keywords:** Good Governance; Investment Regulations; Governance indicators; Investment in Algeria.

**Jel Classification Codes** : K20, F21, F63, L38, L51, M21, O55

* Author's correspondent

## 1. INTRODUCTION

Establishing Good Governance principles in investment management is one of the basic requirements for improving economic performance and achieving desired growth worldwide. Hence, upgrading the regulatory and legislative framework governing the investment field by establishing principles of Good Governance is the best way to improve the business environment and gain the confidence of local and foreign investors. Applying governance rules in investment management also contributes to quality improvement and establishes a positive relationship between administration, investors, and economic actors. Considering the principles of good governance in investment management is one of the main factors affecting the investment decision-making process.

In order to consolidate the rules of governance in investment management, the Algerian government has initiated many reforms within the framework of the so-called economic take-off project, which aims to support the productive sectors, diversify exports, and reduce dependency on the hydrocarbons sector that successive governments often called for during previous periods in vain. To implement this project, the government had to review the regulatory and legislative framework governing investment, strive for more transparency and justice, facilitate administrative procedures to attract investors and establish mechanisms to improve economic governance and drive economic growth. Establishing these principles, based on the good governance concept, will effectively contribute to reducing administrative and financial corruption, which in the past was often the main reason for alienating investors, especially foreigners, from investing in Algeria.

In this context, this analytical study is trying to assess the reforms approved by the Algerian government in the new legislation governing investment, through an approach based on analyzing the good governance indicators included in the updated legal and regulatory provisions and to see the extent of their compatibility with the mechanisms and practical procedures in the implementing provisions of the new investment law.

To achieve this objective, the study attempts to answer the following two questions: What is the meaning of good governance indicators in the new framework governing investment in Algeria? To what extent are the applied measures and administrative procedures established compatible with the provisions of the law aimed at consolidating the principles of governance in the field of investment in Algeria?

To answer these two questions and based on previous works, we initially focused on the theoretical aspect by defining the basic concepts related to Governance and Investment topics. Secondly, we attempt to make projections of these concepts and compare them with the provisions contained in Investment Law n°:22-18, as well as the various procedures and mechanisms included in the different laws and applied texts related to investment in Algeria.

## 2. The theoretical and conceptual framework

Over the past decade, there has been a growing research interest in the Governance and Investment fields. Many scholars, institutions, and international organizations have proposed definitions of the concepts of investment and governance. Despite this interest, there is no unanimity on the subject due to different approaches based on the perception of economic development by each party. However, the literature shows a common consensus around the importance of investment and Governance as two main factors in achieving economic well-being and driving development to further growth within a clearly defined strategic perspective framework.

### 2.1. Investment definition

Literature in Investment proposes two main streams concerning the definition of the concept: The first one emphasizes freedom as a condition to attract investment projects. While the other stream narrows the definition of investment to the benefit of the dominance of the state on the Economy “Economic Sovereignty”. However, many scholars defined investment as allocating capital to obtain new production means, or to develop existing means to increase production capacity (Aliya, 1985). It is also “the formation of new in-kind capital that takes place in increasing production capacity (Lotfi, 1998). Investment has also been defined as investing money to achieve return, income, or profit (Hardan, 1997). While others define it as a portion of the income used in the productive process to form capital (Al-Hajj, 1998).

Investment was also defined by many prominent economists, such as Lambert, who considered investment to be the purchase or manufacture of intermediate automatic products. As for Guitton, he argues that investment is the development of means of prepared energies and their development. Investment is an improvement in the future with spending and sacrifice. As for Dieterlen, investment is at the heart of economic life, monetary theory, development theory, and interest theory (Boubakar, 1988).

Furthermore, many regional, international economic and financial organizations have also suggested a definition of investment, such as the Organization for Economic Co-operation and Development (OECD), which defines investment as all types of asset owned or controlled by the investor directly or indirectly, including an institution, shares, or other forms of equity participation in an enterprise, bonds of an enterprise, or any interest arising from a commitment of capital, or other resources allocated to carrying out an economic activity in the territory of a contracting party (OECD, 1996).

In Algerian legislation, Law No. 22-18 of July 24, 2022, relating to investment, gave the official meaning of investment. Article 4 of this law stipulates that investment includes every activity accomplished through the acquisition of tangible or intangible assets that fall directly within the activities of producing goods and services within the framework of establishing new activities, expanding production capabilities, and/or rehabilitating production tools, or through... Contributing to the capital of an institution in the form of cash or in-kind shares, or by transferring activities from abroad.

On the other hand, the importance of the investment environment lies in its ability to attract national and foreign investments, by providing all the conditions that investors consider necessary to determine the future destination of their investment. On this basis, some scholars define the investment climate as “the set of circumstances, policies, and economic and political institutions that affect the investor’s confidence and push him to invest in one country rather than another," in which objective factors interact with psychological factors. Additionally, the components of the investment environment vary from one country to another following the country's economic policy, as well as the regulations and laws related to the investment decision and the judicial system in resolving disputes that the investor may face (Al-Najjar, 1991). The World Bank, in its World Development Report, issued in 2005, considered the business environment to be a set of factors specific to a particular geographical region that determine opportunities and incentives for companies to invest productively, develop, and create jobs (World Bank, 2005). In the same context, many scholars, such as Weaver and others, consider that the business environment is determined by the environment surrounding companies established in a specific geographical area, the conditions of which have a noticeable impact on their success or failure (Weaver et al, 2011).

As for Algerian legislation, Law No. 22-18 referred indirectly to the meaning of the investment environment, when it stipulated in its first article specifying the rules that regulate investment, the rights and obligations of investors, and the incentive systems applied to investments, or what was also stated in Article The third of the same law affirms the principle of freedom of investment, and the principle of transparency and equality in dealing with investments, all of which are elements related to the concept of the investment environment or climate.

### 2.1. Governance definition

As for the concept of governance, one of the meanings of good governance, its vocabulary is derived from the verb to govern. According to many authors, Governance is a new concept that emerged during the late 20th century. But its meaning has been familiar for a long time. However, the concept of "governance" has imposed itself in the business and administrative language without a unanimous clear of the concept definition. Simply, we can say that there is an overlap between the concept of governance and the art of applying management rules, that is, "good management."

In general, governance is defined as the method of exercising authority in managing various state resources to achieve the desired development. According to the Arab Human Development Report, good governance, which is meant by governance, is governance that promotes, supports, and preserves human well-being and is based on expanding human capabilities, possibilities, opportunities, economic, social, and political freedoms and seeks to represent all segments of the people and be responsible to them to ensure the interests of all people (UNDP, 2002).

International organizations such as the World Bank define good governance as “the method of managing and exercising political, economic and administrative authority to better conduct public affairs” (World Bank 1992). The United Nations Development Program defines governance as “the exercise of economic, political and administrative authority to manage state affairs at all levels, and it includes the mechanisms, processes, and institutions through which citizens and groups express their interests, exercise their legal rights, fulfill their obligations and accept mediation to resolve their disputes (UNDP, 1997).

From the above, Governance aims to establish a set of principles within institutions to achieve efficient organizational performance and the ability to make decisions with high commitment and sufficient responsibility, transparency, and justice. The application of the governance system results in an improvement in the method of managing financial and human resources, and greater clarity in the goals and policies pursued, and this inevitably leads to an increase in individual and collective effectiveness within institutions, which contributes to the development of countries’ economies and raising their productive capabilities (Al-Ghanem, 2021). Establishing the concept of governance depends primarily on the presence of formal controls such as legislation, regulations, and laws that help governments and organizations implement governance principles and employ them to produce good administrative patterns and get rid of old, ineffective patterns (Al-Ghanim, 2021).

In Algeria, the constitution, adopted in 2020, stipulated on two occasions good governance, which is synonymous with the meaning of governance. The first occasion is in Article 199 of the second chapter relating to the Court of Accounts as an official institution that enjoys independence and is charged with the subsequent oversight of the state funds, regional groups, and public utility, as well as state trading capital, and contributes to the development of good governance and transparency in the management of public funds. On the second occasion, the Constitution mentioned good governance in Article 205 of Chapter Four related to the Supreme Authority for Transparency, Prevention, and Combating of Corruption, as an independent official organ responsible for developing a national strategy for transparency, preventing and combating corruption, ensuring its implementation and follow-up, and also contributing to the "ethics" of public life and promoting the principles of transparency and good governance.

From here, as previously mentioned, we conclude that good governance is a concept whose goals are primarily economic. However, this concept has always been defined by political, social, and administrative orientations constituting an essential factor in attracting investments, especially foreign ones.

## 3. Main axes of the investment-related reforms

The Investment reforms in Algeria included several aspects, especially the legislative and regulatory framework. The objective is to enhance transparency and justice as one of the main principles of good governance and to create an appropriate and stimulating climate for investment in different fields and sectors. However, the principles axes of the reforms approved by the government to improve the investment environment are as follows:

### 3.1. Review the Investment law

The review of Law No. 22-18 related to investment, issued in 2022, aims to establish the foundations and guidelines that would contribute to addressing the imbalances and shortcomings recorded in the previous legal system, characterized by the multiplicity and disparity of provisions with a negative impact on the promotion of investment in Algeria. We notice here, in particular, provisions included in successive financial laws, which made the general framework complex and unstable, in addition to numerous sectoral and substantive laws with a significant negative impact on the investment climate in general.

In order to address these effects, the Government was keen, through the new law, to avoid partial measures and erroneous, short-term regulatory solutions put in place in vain. It was also keen on the need to put an end to the repeated amendments to the legal framework and avoid issuing immature texts.

The new law approved a set of legal guarantees that would make the country more attractive to foreign investment in various sectors and put an end to the weakness in the performance of the economy of the country related to the issue of investment attractiveness by adopting a package of legal measures to dispel investors' fears and change the stereotype regarding the issue of freedom of investment action, in Algeria, and eliminating the bureaucratic behaviors that characterized the investment climate in the past.

### 3.2. Mainstream the use of Digitalization in public institutions

Just as stipulated, the concept of digitization was linked to the emergence of information and communication technology, and developed with the information revolution witnessed worldwide at the beginning of the third millennium. This led in a shift from using traditional methods in transferring information and knowledge to using numbering and coding in formulating that information and knowledge and transferring it to the target. Hence, the concept of digitization is essentially based on taking theoretical information and encoding it so that computers can store, process, and transmit it (Bloomberg, 2018).

The development witnessed by the concept of digitization has also led to it becoming the appropriate means for achieving social transformation that results from the massive reliance on digital technologies to obtain, process, and share information, especially in light of the significant development witnessed in Internet access technologies and advanced software (Katz, 2012). Within a comprehensive concept, digitalization in any country has come to express the ability of the government and people to use digital technologies to generate, process, and exchange information to achieve social, economic, and political transformation associated with the mass adoption of information and communications technology (Ruiz & Alejandra, 2013).

On the other hand, digitization is a great opportunity for public utilities through which they can be re-engineered so that they can provide their services at the lowest cost, quickly, and with high quality. This electronic means also represents a qualitative leap and a positive transformation in the management of public utilities, which helps to raise the level of citizens' participation in public affairs, enhance oversight and responsibility in state agencies, and reduce the interference of individuals to the maximum extent possible, which leads to the elimination of administrative corruption. Digitization also helps standardize procedures, reduce human interaction, and monitor comprehensive data that helps establish accountability for many transactions (Magda, 2023).

In Algeria, the state's tendency towards modernizing management methods within the different organizations and agencies concerned with investment management is evident, through keenness to adopt digitization as an effective tool to establish the principle of transparency, as one of the principles of good governance, as well as to eliminate all manifestations of financial and administrative corruption, which has often caused harm, in the past, to the image of the Algerian administration among national and foreign investors.

It is worth noting here that Investment Law No. 20-18 included the creation of a digital platform for investors, supervised by the Algerian Investment Promotion Agency, with the purpose of more transparency and flexibility in transactions with investors.

### 3.3. Reform of the banking system

Modernizing the banking system is a condition for providing a suitable environment for economic operators. It is through the establishment of a clear and transparent legal framework regulating cash and loans contributes to solving many of the financial problems that previously kept the banking system in Algeria far from the modernization, witnessed worldwide, especially those related to it. Digitizing banking transactions.

Hence, the reforms approved by the government through reviewing the Monetary and Loan Law, represented by Order No. 03-11 of August 26, 2003, relating to cash and credit, focused on creating greater transparency and stability in the field of the country's financial management By including new monetary policy tools in order to achieve economic goals and provide an appropriate climate for economic operators to use all modern banking tools.

Among the contents of Law No. 23-09 related to the monetary and banking system is the establishment of effective procedures to facilitate and speed up financial operations, which is essential for investors, and complements the reforms carried before it by the legal and regulatory framework governing investment in Algeria.

### 3.4. Opening the Bank Capital

Considering the vital role that banks play in any economy, applying governance principles in the banking system is extremely important to ensure the safety of this system, achieve efficiency in performance, and support its role in serving the national economy, in addition to its impact on maintaining public confidence in the banking system, which They are essential for the smooth functioning of the banking sector and the economy as a whole (Maatouq et al., 2017).

Hence, the application of governance principles and standards in banks is an option of great importance more than in other companies due to its importance derived from the specificity of its banking activity and its role in promoting the proper application of governance principles in other companies as the main financiers of companies, as banks provide credit. And the liquidity necessary for companies, and the availability of a sound and healthy banking system is an essential pillar for the soundness of the countries' economies through the banking sector and financial institutions (Arab Organization for Administrative Development, 2011).

In this context, the option of the need to accelerate the issue of opening the capital of public banks, adopted by the government, came to confirm the trend towards consolidating the principle of transparency to initiate financial reform and keep pace with global transformations in this sector, which is the pillar of the national economy and a strong mechanism for promoting investment in the country.

The Government's insistence on accelerating the process of opening up the capital of public banks translates into its determination to change the old management pattern, previously centered on a purely administrative approach rather than economic efficiency, provided that this transformation takes place in a scientific, carefully studied and gradual manner as an option to consolidate the principles of good governance in financial institutions, which it will inevitably contribute to encouraging local investment and attracting foreign investments.

### 3.5. Modernizing the Management of Industrial Real Estate:

The reforms adopted by the Algerian government to modernize the management of industrial real estate aim to provide more transparency and facilitate administrative procedures for the investor in everything related to the conditions and methods of granting real estate designated for investment. These reforms were translated by reviewing the legal framework specific to the conditions for granting economic real estate belonging to the state, directed to the implementation of investment projects, in a way that makes it consistent with the provisions contained in Law 22-18 related to investment regarding this aspect, especially those aimed at simplifying the administrative procedures related to investment, eliminating bureaucracy, creating transparency regarding granting economic real estate, and achieving real support for investors in this aspect.

Among the approved reforms, transferring the task of granting economic real estate belonging to the state intended for the implementation of investment projects, and making it among the powers of the Algerian Agency for the Promotion of Investment. According to these reforms, economic real estate allocated for investment is now granted through the single window of the aforementioned agency, in the form of a concession by mutual consent for 33 years, renewable and transferable, as well as for assignment after the actual completion of the project and its entry into service.

As for the updated legal framework regarding the regulatory aspect of economic real estate management, in this aspect, public agencies specialized in the field of industrial, tourist, and urban real estate have been created and assigned to prepare economic real estate belonging to the state, and this before granting it to investors by the agency.

## 4. Governance indicators in the investment law

The provisions contained in Law N° 22-18 related to investment clearly show the government’s keenness to enshrine the principles and rules that contribute to establishing the concept of good governance in the field of investment. This is applied by establishing new provisions through which the state seeks to modernize the legal and regulatory system, simplify investment administrative procedures management related in a way that achieves more transparency, protects investors’ rights, defines their obligations, and precisely explains the conditions and how to benefit from the incentive systems applied to investments.

It seems obvious, by examining the various provisions contained in this law, the existence of the government’s will to improve the performance of the different administrative organs, whether central or local, concerned with the investment field, by strengthening their position, expanding their powers, and increasing their independence in their decisions related to investment. In order to translate the government's will to improve the investment environment, this law and its implementing texts provide a set of mechanisms and procedures facilitating the provisions' implementation.

### 4.1. Principle of transparency

There is particular attention devoted by scholars, as well as international and regional organizations such as Transparency International, to the transparency principle. This interest is because transparency is a tool to consolidate the relationship between the economic operator and the administration. Adding transparency to all information and legal and administrative procedures related to the investment will strengthen trust between investors and institutions concerned with managing the investment file.

The absence of administrative and financial transparency will increase, certainly, the growth of administrative corruption, which will inevitably lead to a decline in economic activity in general, to alienation, a weak presence of foreign direct investment, and a decline in effective local investment in any country. The absence of this administrative principle usually leads investors to change the destination, since corruption in its various forms is classified among the major risks that command investment decisions across different countries.

Returning to the Algerian legislation, the word “transparency” is mentioned many times in the 2020 Constitution, as an expression of the state's new orientation. Regarding the issue of transparency in Law N° 22-18 related to investment, we can find a set of mechanisms and procedures intended to strengthen this principle to achieve good governance rules in the field of investment, especially with regard to registering and processing investment files and granting the benefits and incentives stipulated in the law.

Furthermore, this law establishes the principle of transparency as a basic option for achieving equality in dealing with investments, as stipulated in the second clause of Article Three of the law. The law also focused on the issue of digitization by creating the "Investor's Digital Platform" and making it an effective mechanism to simplify administrative procedures. This is to ensure transparency in processing investor files, and a commitment to providing all necessary information, especially the investment opportunities available in Algeria, the real estate offers and incentives, and the benefits associated with investment, as well as related procedures, as stated in Article Twenty-Three of the law.

The idea of decentralizing the administration concerned with investment, and establishing a single window at the central and local levels, is one of the mechanisms provided by the law to establish the principle of transparency, as stipulated in Article 18 in its eighth and ninth clauses of the law, to ease procedures on investors to eliminate all forms of bureaucracy that contradict the rules of transparency.

### 4.2. Principle of rights protection

The concept of rights protection, in this context, means the protection of investors' rights by the public administration, which ensures the follow-up of investment procedures, by respecting the administrative rules and procedures applied to all investors, and not discriminating between them.

It is evident in Law 22-18 related to investment, as Article 1 stipulates, that protecting the rights of investors is the main goal of this law through the provisions contained therein, which essentially aim to define the rules that regulate investment and the rights and obligations of investors. In order to achieve this principle, the aforementioned law also includes a set of mechanisms that the investor can resort to, if he considers wronged, to recover his rights granted to him by the law, especially if his investment project is refused registration, registration is canceled or he is deprived of the benefits approved by it in the benefit of the investor.

These provisions, including the mechanisms developed to protect the rights of investors in particular, are summarized in the following:

- Under Article 11 of the law, the establishment of a higher national committee for investment-related appeals, and placing it under the direct authority of the Presidency of the Republic, with the mission to adjudicate appeals and enable investors who have been subjected to administrative injustice to recover their legitimate rights related to their investment projects.
- In the same article, the investor can resort to recovering his rights, if he is considered exposed to injustice, by submitting an appeal to the competent judicial authorities, represented by the commercial courts, created specifically to address commercial disputes, following the Organic Law 22-10 related to judicial organization, in addition to the appeal submitted to the Supreme National Appeals Committee.
- The investor can also go directly to the Algerian Investment Promotion Agency, to file a grievance regarding any decision that may be issued against him through which he believes he has been subjected to injustice and deprived of his legitimate rights approved by the law.

### 4.3. Principle of responsibility

Act responsibly is a pivotal principle for those in charge of investor files to achieve good governance in investment. Responsibility is also one of the mechanisms through which the opportunistic actions of managers can be limited and controlled to be in the interest and service of investors. This principle is achieved by establishing mechanisms that regulate and control the decisions and actions of managers to make them more responsible towards the state and towards investors alike.

In this aspect, the Investment Law stipulates, in its second article, the great interests of the state that administrators must preserve in their management of investment files, which are particularly represented by a commitment to act responsibly to achieve a balance between the seven economic and social goals mentioned in the same article when dealing with investment files. The administrators' commitment to responsibility and their diligence in achieving these goals is a feeling of responsibility towards society as well. This is because this good behavior is one of the aspects of encouraging investment aimed at serving society by ensuring sustainable and balanced regional development, valuing and preserving natural resources and local raw materials, creating permanent job positions, and upgrading human resource competencies.

Besides, Article 36 of the law also implicitly expresses the principle of responsibility that administrators and officials must adhere to, and explicitly urges them to commit to implementing the provisions of the law, by following up under the powers granted to them and ensuring that investors respect their written obligations when they register for investment, which is tantamount to the managers' responsibility towards the managers. The state and the direction of society as well.

Furthermore, Article 37 of the Investment Law implicitly referred to the consequences of abandoning legal and moral responsibility for administrators who obstruct investment in ill will, as the aforementioned article explicitly stipulates that every official or administrator is subject to punishment if he, in ill will, obstructs investment by any means under the provisions in the applicable legislation.

From this standpoint, we can conclude that the responsibility that administrators must bear to achieve good investment governance has four basic dimensions that can be summarized as follows:

- Economic dimension; It is represented by the organs concerned with the subject of investment exercising the tasks entrusted to them with all efficiency and effectiveness.
- The second dimension is the legal responsibility that falls within the framework of conscious and voluntary commitment to the laws and legislation governing various aspects of society, whether in investment or other related aspects.
- The ethical dimension through which administrators demonstrate integrity and a sense of personal responsibility towards investors, the

state, and society alike.

### 4.4. Principle of control

The control principle is also one of the main principles of good governance. It is based on activating the supervisory role exercised by various agencies specially established to ensure the proper and legal performance of the various operations carried out within the framework of governing the investment process, starting from the project registration stage until the exploitation. Oversight of investment management aims to improve performance and address errors that may occur in management at the level of the various relevant organs and agencies charged under the law with registering and following up on the implementation of investment projects. In this regard, the law was keen to enshrine this principle to gain the confidence of investors and ensure a sound environment for business in the country free of all manifestations of bureaucracy and administrative and financial corruption.

As for the significance of the principle of oversight, it is evident in Law N° 22-18, and this appears directly or indirectly through enhancing the status and tasks of the various bodies that are related to oversight. In this matter, the law has allocated three organs to carry out the oversight role, represented by the Supreme Committee for Investment Appeals, the National Investment Council, and the Algerian Investment Promotion Agency, which were entrusted with the task of evaluating and addressing errors that may be committed during the management of investor files or deviation from the main objectives set by the Government in the field of investment.

### 4.5. Principle of control

Accountability is also among the most important principles of governance in the field of investment. It aims to achieve interaction between various legal mechanisms to reach the optimal method for managing the affairs of the different organs concerned with the investment file. Furthermore, the principle of accountability aims to confront the imbalances and deviations that may occur in the administrative and financial affairs management of the concerned organs and agencies. Moreover, abandonment or laxity in applying the principle of accountability, if it continues for a period of time, may lead to the spread of the phenomenon of administrative and financial corruption within institutions.

Based on texts related to investment, we can conclude that this principle was addressed implicitly, especially in the implementing texts of Law N° 22-18 related to investment, and this principle appears in three possible cases.

**The first case**: When the annual activity report and agency budget implementation is presented to the Board of Directors for approval, as stipulated in Article 12 of Executive Decree N° 22-298, which determines the organization and functioning of the Algerian Investment Promotion Agency. In this case, members of the Board of Directors can resort to applying the principle of accountability regarding any imbalances or deviations that may have occurred within the framework of managing activities and the administrative and financial management of the agency.

**The second case**: The principle of accountability can also be applied when imbalances are observed that may appear in the periodic reports submitted by various organs to the higher authorities, most notably the evaluation reports submitted by the Algerian Investment Promotion Agency, the National Investment Council, as well as the reports of the National Appeals Committee.

**The third case**: The principle of accountability can also be applied within the framework of the Anti-Corruption Law, 06-01 relating to the prevention and combating of corruption, which aims, as stipulated in Article 1 thereof, to support measures aimed at preventing and combating corruption and promoting integrity, responsibility and transparency in the management of the two sectors, Public and private. Therefore, all managers and employees of the various bodies and agencies concerned with managing the investment file can, like others, be subject to accountability in the event of a suspicion of corruption, usually represented by the administrator or employee receiving undeserved benefits or exploiting his position for personal purposes, detailed in Chapter 4 of the aforementioned law.

### 4.5. Principle of self-discipline

Self-discipline is also one of the main principles that must be available to establish the rules of good governance within any organ or institution concerned with investment file management. By self-discipline, we mean that the administrator or employee follows appropriate and correct ethical behavior while performing his obligations, especially during his dealings with investors through providing all services and facilities approved by the law to them with all integrity and responsibility. Without the ethical dimension will, inevitably be replaced by the spread of administrative and financial laxity and corruption within institutions.

From this standpoint, it is not possible to establish the concept of good governance within institutions in isolation from the ethical aspect of the individuals themselves, given the importance of this dimension and its role in improving the performance of institutions and consolidating the principle of commitment among managers in particular and among all employees in general.

In Investment Law and the applied texts related to it, it appears implicitly in Article 37, which stipulates that anyone who, in ill will, obstructs investment by any means, is subject to punishment, under the provisions in the legislation in force. When ill will is mentioned, it means the individual behavior of administrators or employees and, therefore it seeks to address the ethical aspect of the individual within the organs and agencies concerned with investment management.

The discipline of individuals to carry out the tasks assigned to them is determined at the level of the organs to which they belong with complete integrity. As stated in Article 4 of the law, specifies the obligations that individuals must undertake towards investors, such as ensuring reception and information services for their benefit, providing them with all necessary information, and accompanying them to other departments.

### 4.7. Principle of participation

The principle of participation in the governance framework means ensuring the right of all concerned parties to participate in decision-making, either directly or through legitimate institutions that represent their interests. Participation is based on the freedom to express opinions and provide constructive observations, recommendations, and proposals, through institutional channels that enable participation in decision-making, especially when developing and evaluating policies or correcting errors that may occur at the institutional level. The principle of participation within the governance framework aims to build sound policies and make mature decisions that ensure the stability and sustainability of institutions and avoid tensions that may be caused by unilateral decisions that usually result in the interest of one-party taking precedence over another.

The principle of participation in diversity in representation appears in the different organs and agencies mentioned in Law 22-18 and the eight applied texts explaining it, such as what was stated in Article 3 of Presidential Decree N° 22-296, which includes the formation of the National Appeals Committee, as well as in Article 3 of the Decree. Executive N° 22-297, which specifies the composition of the National Investment Council.

In the same way, this also appears in Article 7 of Executive Decree N° 22-298, which specifies the composition of the Board of Directors of the Algerian Investment Promotion Agency, in addition to Article 20 of the same decree, which specifies the composition of the Single Window.

Through these aforementioned articles, the principle of participation in the decision-making process is guaranteed through the various organs and agencies mentioned in the Investment Law. The diversity of the composition of these organs indicates the principle of participation, which is embodied through the membership of different ministerial sectors, different government institutions, judges, experts, and various agencies directly or indirectly concerned with the promotion and management of investment in Algeria.

## 5. Findings of the study

In light of what was discussed, this study reached a set of important findings, which can be summarized as follows:

- Governance indicators in investment management are largely available in the new framework, especially in Law 22-18 governing investment and all applicable laws and texts that have been affected by reforms related to the investment field.
- Consolidating the principles of good governance has become a belief that it is the only effective option to increase the performance of the various

agencies charged with managing the investment file in the country.

- The mechanisms and procedures for administrative transparency and justice included in the law relating to investment and the implementing texts interpreting it will contribute to enhancing the confidence of investors in general and encouraging foreigners, in particular, to invest in Algeria.
- Governance indicators appear clearly in the clarity and accuracy that characterized in particular the provisions of the law related to investment and the eight implementing decrees related to it, especially the accuracy in defining rights and obligations, How to take advantage of the privileges and incentives system, and everything related to registering projects and approved evaluation networks, And also with everything related to appeals, dispute settlement, and other rulings;
- Governance indicators also appear clearly in other laws related to investment, which have also undergone a deep review, especially those related to real estate intended for investment, or those regulating monetary and exchange policy, the creation of specialized commercial courts, and other laws that were reviewed after the adoption of Law N° 22-18.
- The process of structural and institutional renewal approved by the Investment Law also came to consolidate the principles of good governance in the different organs and agencies that have a direct relationship with the subject of investment, most notably the Algerian Investment Promotion Agency and its single windows, the Supreme National Committee for Appeals, and the National Investment Council, in addition to reforms. It also concerns the customs and tax sector, the state properties sector, and others.
- The process of introducing new mechanisms into the work of the bodies in charge of investment, such as digitizing the various administrative procedures stipulated in the Investment Law, is one of the effective measures to establish the principle of transparency and create a business climate that is suitable and attractive for investments.

## 6. CONCLUSION

This analytical study showed that the reforms approved by the government in the new legislation regulating investment in Algeria included many indicators of good governance. It is evident in the content of many of the provisions in Investment Law 22-18 and the mechanisms and procedures in the applied texts interpreting this law to help translate those provisions related to good governance in the field of investment.

However, to consolidate the concept of good governance included in the framework governing investment, we suggest the following:

- The necessity of ensuring the digitization of all administrative procedures and services related to investment and making the investor's digital platform the primary mechanism for communicating with investors, especially during registering investments stage.
- Ensuring the proper application of these provisions on the ground requires focusing on the principles of responsibility and efficiency in recruitment and appointment in the various organs concerned with the investment file;
- The necessity of establishing effective mechanisms for follow-up, monitoring, and periodic evaluation of how the principles discussed are applied on the ground to ensure good governance of investment in Algeria;
- The necessity of training administrators across the different organs in charge of the investment file in governance and modern management methods to increase the performance of these organs and ensure effectiveness in the field;
- The need to encourage scientific research in governance and use the results of studies to develop management methods and consolidate the principles of good governance to ensure continuous improvement of the business environment in Algeria.

## 7. Bibliography List :


1. Bloomberg, Jason, Digitization and digital transformation: confuse them at you peril, 2018, p 6.

2. Miloudi Boubakar, Investissement et strategie de developpement, Alger : OPU, édition 1988
3. OECD (Organisation for Economic Co-operation and Development), Definition of investor and investment, (Note by the Chairman), 1996.
4. OECD, Themultilateral agreement on investment: consolidated texts and commentary (Note by the Secretariat), 1997.
5. UNDP (United Nations Development Programme), Governance for Sustainable Human Development, document de politique, New York, 1997.
6. Raul Katz, Koutroumpis Pantelis, Measuring Socio-economic digitation a paradigm shift, U.S.A, 2012, p 35.
7. Ruiz,M. & Alejandra Lagunes Soto, National Digital Strategy, National digital strategy coordinator, Mexico, 2013, p 13.
8. Weaver, K. M., Liguori, E. W., et Vozikis, G. S, Entrepreneur Business Climate Perceptions: Developing a Measure and Testing a Model. The Journal of Applied Business and Economics, 12(1), 2011, 95 104.
9. World Bank, Banque Mondiale, Governance and development, Washington DC, Éd. World Bank, 1992, p61.
10. World Bank, A Better Investment Climate for Everyone, World Development Report, The World Bank 2005
11. Jean D Sullivan, The Moral Compass of Companies: Business Ethics and Corporate Governance as Anti-Corruption Tools, Global Corporate Governance Forum, International Finance Corporation, 2008, p.2.

## Arabic references:

1. النجار سعيد، نحو إستراتيجية قومية للإصلاح الاقتصادي، ط 1، دار الشروق، القاهرة، 1991 ، ص 126.
2. عبد الله الغانم، قضايا إقتصادية: مفاهيم وأهداف، وزارة الاقتصاد والتخطيط السعودية، 2021.

https://www.mep.gov.sa/ar/EconomicAffairs/EconomyBlog/Pages/Governance_concept_and_objectives.aspx (consulté le 26 /avril/2023)

3. محمد بشير علية، القاموس الاقتصادي، بيروت، المؤسسة العربية للدراسات والنشر، 1985، ص32 .
4. علي لطفي، دراسات اقتصادية، الطبعة الثانية، (لم يذكر اسم الناشر وبلد النشر)
5. طاهر حيدر حردان، مبادئ الاستثمار، دار المستقبل للنشر والتوزيع، عمان، الطبعة الأولى، 1997، ص13.
6. طارق الحاج، علم الاقتصاد ونظريته – دار النشر والتوزيع– الأردن–. عمان، سنة 1998، ص123 .
7. ماجدة عبد الشافي محمد، الرقمنة كآلية لإعادة هندسة المرافق العامة للحد من الفساد الإداري، مجلة الدراسات القانونية والاقتصادية، جامعة مدينة السادات، مصر، 2023.

8. سهير محمود معتوق؛ نيفين محمد طريح؛ فيوليت صبحي رزق، الحوكمة في الجهاز المصرفي، المجلة العلمية للبحوث والدراسات التجارية المجلد 31 – العدد1، 2017 ص187.
9. المنظمة العربية للتنمية الإدارية، الحوكمة والاصلاح المالي والإداري، ملتقى" الحوكمة والاصلاح المالي والإداري في المؤسسات الحكومية"، المنعقد في القاهرة، سبتمبر 2011، ص 7.
10. تقرير التنمية الإنسانية العربية الصادر عن برنامج الأمم المتحدة الانمائي لعام 2002، ص 101.

## Arabic Legal references

1. (دستور الجمهوريّة الجزائريّة الديمقراطيّة الشّعبيّة) الجريدة الرسمية الصادرة بتاريخ 30 ديسمبر 2020 العدد: 82 ص4
2. قانون رقم 22-18 المؤرخ في 24 يوليو 2022، يتعلق بالاستثمار (الجريدة الرسمية، سنة 2022، العدد: 50 ص5).
3. مرسوم رئاسي رقم 22-296 مؤرخ في 4 سبتمبر سنة 2022، يحدد تشكيلة اللجنة العليا الوطنية للطعون المتعلقة بالاستثمار وسيرها (الجريدة الرسمية، سنة 2022، العدد: 60 ص4).
4. مرسوم تنفيذي رقم 22-297 مؤرخ في 8 سبتمبر سنة 2022، يحدد تشكيلة المجلس الوطني للاستثمار وسيره (الجريدة الرسمية، سنة 2022، العدد: 60 ص5).
5. مرسوم تنفيذي رقم 22-298 مؤرخ في 8 سبتمبر سنة 2022، يحدد تنظيم الوكالة الجزائرية لترقية الاستثمار وسيرها (الجريدة الرسمية، سنة 2022، العدد: 60 ص6).
6. مرسوم تنفيذي رقم 22-299 مؤرخ في 8 سبتمبر سنة 2022، يحدد كيفيات تسجيل الاستثمارات أو التنازل عن الاستثمارات أو تحويلها وكذا مبلغ وكيفيات تحصيل الإتاوة المتعلقة بمعالجة ملفات الاستثمار (الجريدة الرسمية، سنة 2022، العدد: 60 ص12).
7. مرسوم تنفيذي رقم 22-300 مؤرخ في 8 سبتمبر سنة 2022، يحدد قوائم النشاطات والسلع والخدمات غير القابلة للاستفادة من المزايا وكذا الحدود الدنيا من التمويل للاستفادة من ضمان التحويل (الجريدة الرسمية، سنة 2022، العدد: 60 ص28).
8. مرسوم تنفيذي رقم 22-301 مؤرخ في 8 سبتمبر سنة 2022، يحدد قائمة المواقع التابعة للمناطق التي توليها الدولة أهمية خاصة في مجال الاستثمار (الجريدة الرسمية، سنة 2022، العدد: 60 ص37).
9. مرسوم تنفيذي رقم 22-302 مؤرخ في 8 سبتمبر سنة 2022، يحدد معايير تأهيل الاستثمارات المهيكلة وكيفيات الاستفادة من مزايا الاستغلال وشبكات التقييم (الجريدة الرسمية، سنة 2022، العدد: 60 ص43).
10. مرسوم تنفيذي رقم 22-303 مؤرخ في 8 سبتمبر سنة 2022، يتعلق بمتابعة الاستثمارات والتدابير الواجب اتخاذها في حالة عدم احترام الواجبات والالتزامات المكتتبة (الجريدة الرسمية، سنة 2022، العدد: 60 ص57).
11. قانون رقم 23-9 مؤرخ في 21 يونيو سنة 2023 يتضمن القانون النقدي والمصرفي (الجريدة الرسمية، سنة 2023، العدد: 43 ص 4).
12. القانون العضوي رقم 22-10 المؤرخ في 9 يونيو 2022 المتعلق بالتنظيم القضائي (الجريدة الرسمية، سنة 2022، العدد 41، ص6).

13. المرسوم التنفيذي رقم 23-53 المؤرخ في 14 جانفي 2023 المحدد لدوائر الاختصاص الاقليمي للمحاكم التجارية المتخصصة (الجريدة الرسمية، سنة 2023، العدد: 02 ص18).