KPMG

Guide to Investing in Algeria

April 2025

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KPMG Algeria

An international network, for your local needs

By helping other organizations mitigate risks and seize opportunities, we can **drive positive and sustainable change** for clients, our employees, and society as a whole.

KPMG firms operate in 143 countries and, during the 2023 fiscal year, collectively employed more than 270,000 professionals, addressing the needs of **businesses, governments, public sector agencies, and nonprofit organizations** through the audit and assurance practices of KPMG firms, as well as financial markets. KPMG is committed to ensuring quality and service excellence in everything we do, bringing our best to our clients and earning the public's trust through our actions and behaviors, both professionally and personally.

We are guided by a commitment to quality and integrity within the global KPMG organization, bringing a passion for **client success and a willingness to serve and improve the communities** in which KPMG firms operate. In a world where rapid changes and unprecedented disruptions have become the new norm, we inspire confidence and drive change in everything we do.

KPMG Algeria has been dedicated since 1990 to helping its clients thrive and succeed in an ever-changing local economic environment.

Our 120 multidisciplinary advisors and our regional network of experts provide **strategic advice, innovative solutions, and specialized expertise in investment fields**. They handle the most complex challenges in various areas such as commercial law, tax law, labor law, customs law, investment, and foreign exchange regulations.

Furthermore, by acting **ethically, transparently, and responsibly, and by strictly following KPMG International's standards and methods**, they contribute to improving the business environment.

At KPMG Algeria, we firmly believe that the development of our clients directly impacts the overall development of Algeria. By helping them enhance their operational efficiency, improve corporate governance, and seize new growth opportunities, we indirectly contribute to job creation, revenue generation, and the stimulation of economic activity in the country.

KPMG Algeria plays a crucial role in building a strong, sustainable, and prosperous economy for Algeria.

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CHAPTER 1

General presentation of Algeria

1. History and geography

Algeria is a democratic and popular republic. The country is located in North Africa and covers an area of 2,381,741 km² (the largest country in Africa and the Mediterranean and the 10th largest in the world). Algeria is bordered to the north by the Mediterranean Sea with 1,660 km of coastline and to the east by Tunisia and Libya, to the south by Niger and Mali, to the southwest by Mauritania and Western Sahara, and to the west by Morocco.

It is a land of contrasts with diverse landscapes, where Mediterranean landscapes, vast semi-arid high plateaus, and lunar desert spaces meet. The areas of the territory that receive more than 400 mm of rain annually are limited to a strip, at most 150 km deep, from the coastline. The mountain ranges accentuate the rapid aridification of the climate as they extend southward, running parallel to the coast.

Three very contrasting regions share the Algerian territory: the Tellian region in the north (4% of Algeria's total area), the High Plateaus region (9% of the total area), and the Saharan region in the south (87% of the territory). The climate is Mediterranean and temperate in the north, and Saharan, hot and dry in the south. In the north, summers are mild with average temperatures of 25°C, and winters are rainy and sometimes very cold. In the High Plateaus, the climate is arid and dry.

A crossroads where three worlds meet — Mediterranean, Arab, and African — Algeria is also a land that has been occupied by multiple peoples (Phoenicians, Romans, Vandals, Byzantines, Arabs, Turks, and French) despite the fierce resistance of its inhabitants, who were led by illustrious figures: Massinissa and Jugurtha (Roman period), Kahina and Koceïla (pre-Islamic period), and Emir Abdelkader, Lalla Fatma N'Soumer, Cheikh El Mokrani, Larbi Ben M'hidi, and Abane Ramdane (French colonial period).

As numerous witnesses, Algeria is home to remarkable archaeological sites, particularly from the Roman and Phoenician eras. Seven Algerian monuments and sites are currently listed as UNESCO World Heritage sites: the Kalâa of the Beni Hammad, Djemila, Tassili n'Ajjer, Timgad, Tipaza, the M'Zab Valley, and the Casbah of Algiers. Algeria has also submitted an indicative list of properties it considers to be cultural and/or natural heri-

tage of outstanding universal value, which could potentially be inscribed on the World Heritage List. These include: the oases of Foggaras and the ksour of the Grand Erg Occidental, the Augustinian sites, places, and itineraries of Central Maghreb, Nedroma and the Trara, Oued Souf, the Royal Mausoleums of Numidia, Mauritania, and pre-Islamic funerary monuments, as well as the Aurès Park with the oasis establishments of the Rhoufi and El Kantara gorges.

Culturally, the Algerians, whose population belongs to the same sociocultural group as that of Morocco and Tunisia, have also been marked and influenced by the various civilizations that flourished and prospered around the Mediterranean. The Arabs and the French are the ones who have left the most significant traces. French is the most widely spoken language of communication, especially in the world of economics. However, other languages, particularly English, are also increasingly spoken, especially by young people and in the business world.

In addition to these human and cultural riches, Algeria is characterized by a privileged geostrategic position and significant and diversified natural resources: Algeria's gas reserves are among the largest in the world, and its subsoil contains substantial deposits of oil, phosphate, zinc, iron, gold, uranium, tungsten, and kaolin.

2. Population – Demographics

The population stands at 46.7 million inhabitants as of January 1, 2024 [1]. Projections for the Algerian population until the year 2100 primarily indicate a significant demographic slowdown, a clear decrease in the fertility rate, population aging, and an increase in life expectancy. The population is expected to grow by 16% between 2020 and 2030, then by only 12% between 2030 and 2040 (to 51.3 million in 2030 and 57.6 million in 2040) [2].

The coastline accounts for nearly 40% of the population. More than 14 million people live in the Tellien region in the north, with an average density of 260 people per km². This density is one person per km² in the Great South regions, with a national average of 16.6 people per km². Along the coastal strip, the population is primarily concentrated around major cities. While the urban sector represented only 12% of the Algerian population in 1960, it now accounts for more than 74% in 2021 and could reach up to 85% by 2050 according to estimates [3].

- **Key figures**

– Population: 46.7 million people as of January 1, 2024.
– Birth rate: 19.32‰ in 2023.
– Fertility rate: 2.94 children per woman in 2020.
– Life expectancy of the total population: 74 years (men 73 years, women 76 years) [4].

1 National Statistics Office (ONS).
2 United Nations: World Population Prospects.
3 United Nations - World Urbanization Prospects 2018.
4 World Bank, 2020.

- **Population structure by age and sex (per 10,000) as of 07/01/2023 (ONS):**

Age range (by year)	**Masculin**	**Feminin**	**Whole**
0	98	93	191
1-4	424	403	827
5-9	556	526	1082
10-14	480	454	935
15-19	381	360	741
20-24	322	309	631
25-29	361	348	709
30-34	399	388	788
35-39	408	404	812
40-44	371	364	735
45-49	293	291	585
50-54	246	250	495
55-59	208	212	419
60-64	163	167	330
65-69	129	132	261
70-74	96	96	192
75-79	54	60	114
80-84	39	44	83
+85	33	36	69
Total	**5 063**	**4 937**	**10 000**

3. Major cities – Languages – Religions

Most of the Algerian population is distributed among approximately 121 urban centers, 68 semi-urban centers, and 58 "potential" semi-urban centers. The country's main cities are concentrated in the North and the High Plateaus: Algiers (the administrative, economic, and cultural capital), Oran, Constantine, Annaba, Sétif, Tlemcen, Skikda, Bejaïa, Tizi-Ouzou, Jijel, Tiaret, Batna, Biskra, Mostaganem, Saïda, M'sila, Chlef, Béchar, Ouargla, Ghardaïa, Adrar, El-Oued, and Tamanrasset.

Arabic is the national and official language, spoken by the majority of the population. Tamazight (Berber) is also a national and official language, with various regional dialects. The vast majority of Algerians are Sunni Muslims. The country's Constitution recognizes Islam as the state religion. Freedom of worship is guaranteed, and religious tolerance is a reality in society. Algerian society is largely monogamous, although polygamy is permitted by both the Quran and the Family Code.

4. Territorial and administrative organization – Political institutions

The commune is the basic unit of Algeria's territorial organization. There are 1,541 communes, grouped into administrative districts (daïras, totaling 548) and departments (wilayas, totaling 58). The commune is managed by a Communal People's Assembly (APC), elected for five years. The commune's president is elected by the APC.

The wilaya (administrative districts equivalent to prefectures) has a Wilaya People's Assembly (APW), also elected for five years. It is administered by a Wali (prefect) appointed by the President of the Republic. The heads of Daïras (administrative districts equivalent to sub-prefectures) are also appointed by the President of the Republic.

The 1989 Constitution has undergone several amendments (in 1996, 2008, and 2016), with the most recent revision in 2020. This constitutional amendment was adopted by referendum on November 1, 2020, and was promulgated and published on November 30, 2020.

The Constitution establishes a multiparty system, guarantees full exercise of individual and collective freedoms in all forms and domains, and institutes the separation of executive, legislative, and judicial powers. The system is presidential in nature. The President of the Republic is elected by direct universal suffrage and secret ballot for a five-year term and is re-eligible for up to two consecutive or separate terms.

If the legislative elections result in a presidential majority, the President of the Republic appoints a Prime Minister, who is responsible for proposing a government and drafting an action plan to implement the presidential program, which is then presented to the Council of Ministers. The Prime Minister submits the government's action plan for approval by the National People's Assembly (APN).

If the legislative elections produce a majority other than a presidential one, the President of the Republic appoints a Head of Government from the parliamentary majority, who is tasked with forming the government and developing the majority's legislative program.

Following the constitutional revision of November 28, 1996, which established a bicameral Parliament, the National People's Assembly (lower house) became the first chamber of Algeria's Parliament. It consists of 407 deputies elected based on their political parties' programs or as "independent" candidates.

The Council of the Nation serves as the second chamber of Parliament. It consists of 174 members, two-thirds of whom (116 members) are elected by indirect universal suffrage by local and wilaya assembly members. The remaining one-third (58 members) is appointed by the President of the Republic under a constitutional provision.

The Council of the Nation votes on laws and reviews texts already adopted by the APN, but it does not have the power to amend them. In case of disagreement with the APN, a joint commission is established to draft a revised text, which is then submitted to both chambers for approval without the possibility of further amendments.

The President of the Council of the Nation (Senate) is the second highest-ranking official in the state, as they assume the role of interim President of the Republic in case of a power vacancy. However, they are not eligible to run for the presidency.

The February 1989 Constitution provided for a Constitutional Council, which was replaced by the 2020 constitutional revision with the Constitutional Court, now composed of twelve members.

The Constitutional Court is an independent institution responsible for ensuring compliance with the Constitution. It serves as the regulatory body for the functioning of institutions and the activities of public authorities.

In addition to its powers regarding the control of the constitutionality of laws, the Constitutional Council is entrusted with the mission of overseeing the regularity of referendum operations, the election of the President of the Republic, and legislative elections. It also proclaims the results of these processes.

The Constitutional Court may be referred to by the President of the Republic, the President of the Council of the Nation, the President of the People's National Assembly, or the Prime Minister/Head of Government, as applicable. It may also be referred to by 40 deputies or 25 members of the Council of the Nation.

The Constitutional Court can also be seized of an issue of unconstitutionality referred by the Supreme Court or the State Council. The Constitutional Court rules on the constitutionality of treaties, laws, and regulations, as well as on the compatibility of laws and regulations with international conventions.

The other main institutions of the Algerian state are:

- **Control institutions:** The Constitutional Court, the Court of Auditors, the Independent National Authority for Elections, and the High Authority for Transparency, Prevention, and the Fight Against Corruption.
- **Consultative bodies:** The High Islamic Council, the High Security Council, the National Economic, Social, and Environmental Council, and the National Human Rights Council.
- **Judicial bodies:** The Supreme Court, the Council of State.

5. Political parties – Associative movements

The 1989 Constitution, which established a pluralistic regime, ended the monopoly of political power by a single party (the FLN).

The law of July 5, 1989, enacted under Article 40 of the Constitution, was immediately followed by the creation of new political formations or the public emergence of other parties. The main political parties include the National Liberation Front (FLN, the former single party born from the War of Liberation), the National Democratic Rally (RND, primarily rooted in administrative circles), the Socialist Forces Front (FFS, founded in 1963), the Rally for Culture and Democracy (RCD), the Movement of Society for Peace (MSP), El-Islah (The Renewal), the Workers' Party (PT), and the Algerian National Front (FNA).

The right to create associations is guaranteed by the Constitution and is exercised through a simple declaration.

6. Judicial system

The Constitution provides for an independent judicial system. The President of the Republic is the guarantor of the independence of the judiciary. Judges are protected from any form of pressure and are subject only to the law. They are accountable to the High Council of the Judiciary. The Algerian judicial system is characterized by three main features: the duality of jurisdictions, the simplicity of procedures, and the accessibility of justice to citizens. The main structures of this system are:

- **The Supreme Court:** a regulatory body overseeing the activities of courts and tribunals, ensuring the unification of jurisprudence and compliance with the law.
- **The Council of State:** the highest level of administrative jurisdiction, serving as the appellate judge for rulings issued by administrative chambers and the cassation judge for decisions rendered as a last resort. It also rules on annulment appeals against regulatory or individual decisions made by administrative authorities and national professional organizations (such as the National Bar Association, the Order of Architects, and the Medical Association). Additionally, it adjudicates appeals concerning the interpretation and legality of acts within its jurisdiction.
- **The High Council of the Judiciary:** It is chaired by the President of the Republic. It ensures compliance with the provisions of the judiciary's status and oversees the discipline of magistrates. It has administrative and financial autonomy.
- **The Tribunal of Conflicts:** Responsible for resolving conflicts of jurisdiction between judicial and administrative courts, it ensures that no dispute remains unresolved due to differences between these two jurisdictions.

Following the promulgation of Law No. 22-13 on July 12, 2022, amending and supplementing Law No. 08-09 of February 25, 2008, which pertains to the Civil and Administrative Procedure Code, the dual jurisdiction system has been strengthened with the establishment of two bodies: the Administrative Court of Appeal and the Specialized Commercial Court.

7. Stay in Algeria: conditions, formalities, work permits

To undertake a tourist trip or a business trip, it is necessary to have a passport and a valid visa. The visa is obtained from an Algerian consulate with the presentation of a professional invitation or a certificate of accommodation for private purposes.

In addition to the tourist visa, two types of visas are issued:

1. Business visa: issued abroad to the holder of either a letter of invitation from the Algerian partner, or a letter of commitment or a mission order from the employer organization of the visa applicant, along with a hotel reservation or a certificate of accommodation from the inviting organization.

2. Work visa: issued abroad to the holder of an employment contract and a provisional work authorization, prior to the work permit, issued by the competent employment authorities, as well as a certificate from the employer organization endorsed by the relevant services. This work visa can also be issued to the holder of a contract for assistance

or service provision abroad [5]. Upon entry into the territory, the traveler benefits from the exemption from duties and taxes for personal effects and items that may be needed during their stay, excluding goods imported for commercial purposes.

The traveler can import, without any amount limitation, banknotes or other means of payment. However, the traveler is required to declare, in writing on a form with a section, the banknotes, valuables, and other means of payment imported into Algerian territory.

The details of these transactions must be recorded on the section of the currency declaration form. This form, along with the exchange receipts, may be checked upon departure from the country.

Foreign nationals working in Algeria must hold a work permit or a temporary authorization issued by the employment services of the relevant Wilaya.

The reception of travelers in Algeria has significantly improved in recent years. Alongside the existing major establishments (El Djazaïr - formerly Saint-Georges, El Aurassi, Es-Safir - formerly Aletti), there are hotels from major business hotel chains in the capital and some regional cities, such as Sofitel, Mercure, Hilton, Sheraton, Ibis, Méridien, Holiday Inn, Algiers Marriott Hotel Bab Ezzouar, Hyatt Regency Algiers Airport, etc.

8. Practical information

- **Time zone:** GMT + 1
- **Weights and measures:** MKSA (meter, kilogram, second, ampere).
- **Telephone numbering:** A 10-digit numbering system has been in place since the beginning of 2008 for mobile phones. To call Algeria: +213 (Algeria's country code) + the recipient's number (without the zero). For international calls: 00 + country code + the recipient's number (without the zero).
- **Currency:** The currency unit of Algeria is the Algerian dinar (Common national code: "DA"; International ISO code: "DZD"): one dinar is subdivided into 100 centimes. Foreign currency exchange into dinars, at the official rate, is allowed. For converting dinars into foreign currency, it is currently only possible in the context of commercial transactions when they are domiciled, and thus subject to the applicable regulations. The exchange rate as of December 30, 2024 [6]:

	Buying	Selling
1 Euro	141,1997 DA	141,2425 DA
1 USD	135,5604 DA	135,5754 DA

- **Weekend:** Friday and Saturday.
- **Working hours:** Generally from 8 AM to 4 PM. However, bank counters close at 3:30 PM, while other public services (such as civil registry and post office) remain open until 4 PM.

5 For more information on this matter, see the *Guide to the Employment of Foreigners in Algeria, KPMG Algeria*.
6 Bank of Algeria, exchange rates as of December 30, 2024.

– **National and public holidays**

1st January	Gregorian New Year's Day	1 day
12th January	Amenzu n Yennayer (Amazigh New Year's Day)	1 day
1st May	Labour Day	1 day
5th July	Independence Day	1 day
1st November	Revolution Day	1 day

– **Religious holidays** [7]

1st Chawwal	Aïd El Fitr El Moubarek (Ramadan fast-breaking celebration)	3 days
10th D'Hou al-hijja	Eid El Adha El Moubarek (Feast of the Sacrifice)	3 days
1st Muharram	Awal Moharram (Hegira New Year's Day)	1 day
10th Muharram	Achoura (Feast of Almsgiving)	1 day
12th Rabi el awwal	El-Mawlid Ennabawi Echarif (Anniversary of the Prophet's birth)	1 day

9. Key indicators

9.1. Economic indicators

In 2020, the country experienced a recession due to the Covid-19 crisis before rebounding in the following years due to the rise in hydrocarbon prices.

– **Gross Domestic Product (GDP):** GDP measured in purchasing power parity, or per capita in current dollars, has significantly increased since 2003. Regarding the period from 2011 to 2014, significant GDP growth was observed, mainly supported by hydrocarbon revenues and public investments. In 2015, it decreased due to the impact of falling oil prices. Since 2016, GDP has shown continuous growth except for the year 2020, when a decline in GDP occurred due to the COVID-19 health crisis. However, since 2021, GDP has been on the rise again, reaching 32,589 billion DA in 2023.[8]

– **Breakdown of GDP/non-hydrocarbons:** 70% private sector, 30% public sector.

– **Proportion of hydrocarbons:** 14% of GDP; 86% of foreign exchange earnings (USD 38.37 billion in 2023). [9]

– **Petroleum taxation:** Approximately 52% of total government budget revenues come from hydrocarbons (an estimated 5,577 billion DA in 2023). [8]

– **Gold reserves:** 173.6 tons (5.12% of world reserves).[10]

– **Growth:** The Algerian economy contracted by -9.5% in 2020 as a result of the Covid crisis, before rebounding with growth of 20.4% in 2021 and 27.3% in 2022 as a result of higher hydrocarbon prices during this period. In 2023, the rate of growth has fallen to 7.5%, according to estimates and figures from the Bank of Algeria. [8]

– **Overall volume of trade (imports/exports):** Hydrocarbon exports remain the most important source of revenue for the Algerian economy, covering all the country's imports.

7 Dated according to the Islamic lunar Hegirian calendar, which is 10 to 11 days behind the Gregorian calendar each year.
8 2023 Annual Report, Bank of Algeria.
9 World Bank: Algeria Presentation ↗
10 World Gold Council, 2022.

– **External debt outstanding:** Algeria has repaid almost all its external debt, making it the least indebted of the 20 countries in the MENA region (Middle East and North Africa), with an overall debt (long- and short-term) of USD 3.186 billion in 2023.[8]

		2020	2021	2022	2023
GDP (billions of DA)	11	20 902	25 158	32 028	32 589
GDP growth rate (%)	11	-9,48	20,36	27,31	7,5
Foreign exchange reserves (billions of USD)	12	48	45	61	69
Foreign exchange reserves % of GDP	12	29,13	24,17	27,05	28,76
Current account balance (billions of USD)	11	(18,69)	(4,57)	19,46	5,52
Trade balance (billions of USD)	13	(13,62)	1,17	26,85	12,02
Imports (fob) (billions of USD)	13	35,55	37,47	38,87	42,96
Exports (fob) (billions of USD)	13	21,93	38,64	65,72	54,98
Inflation rate (%)	14	2,40	7,23	9,30	9,32
Unemployment rate (%)	15	14,10	13,60	12,30	11,70
Outstanding foreign debt (billions of USD)	16	3,45	3,07	3,04	3,19
Domestic public debt (billions of DA)	11	9 423	13 704	15 260	15 920
Total public debt (% of GDP)	11	47,17	56,12	48,99	50,18
FDI (billions of USD)	17	1,15	0,93	0,23	1,24
Crude oil production (mT)	18	43	43	46	46
Natural gas production (billions of m^3)	18	85	105	101	105

9.2. Infrastructure

• Real estate

The national housing stock reached 9,600,969 units at the end of 2018. The comfort index represented by the housing occupancy rate (TOL), rose from 4.55 people per dwelling at the end of 2014 to 4.49 at the end of 2018 recording a decrease of 0.06 points.

At the end of 2019, for an estimated housing stock of 9.9 and a population of 41 million according to ONS projections for 2030, the TOL would be 4.14 people per dwelling, recording a decrease of 0.41 points, reflecting the significant improvement in housing conditions in Algeria.[19]

This housing stock is segmented mainly into apartments, single-family homes and traditional houses. Single-family homes dominate the market with a 60% share, followed by apartment buildings with 14% and traditional houses with 14%.

Algeria has announced a five-year 2015-2019 public investment plan worth almost 200 billion euros, a program said to be dense and to benefit all sectors in all regions of the country.

11 Annual Report, Bank of Algeria.
12 Official foreign exchange reserves and Annual Report, Bank of Algeria.
13 Bank of Algeria: https://www.bank-of-algeria.dz/balance-des-paiements ↗
14 World Bank: Inflation, consumer prices (annual %) - Algeria ↗
15 World Bank: Unemployment, total (% of total labor force) (modeled ILO estimate) - Algeria ↗
16 Bank of Algeria: https://www.bank-of-algeria.dz/statistiques/statistique-de-la-dette-exterieure/ ↗
17 World Bank: Foreign direct investment, net inflows (% of GDP) - Algeria ↗
18 Energetic Report, Ministry of Energy, Mines and Renewable Energies.
19 Ministry of Housing, Town Planning and Urban Development.

- **Infrastructure and public works**

— Terrestrial

Algeria has one of the most extensive road networks in the Maghreb and Africa, with a total length of 108,302 km, broken down as follows:

- 76,028 km of national and departmental roads.
- 32,274 km of secondary roads.
- Algeria has a 6-lane East-West freeway, 1,216 km long.

— Maritime

Algeria has 45 ports in service, including:

- 11 mixed commercial ports (trade, fishing and hydrocarbons).
- 2 ports specialized in hydrocarbons (Skikda Est and Béthioua).
- 31 fishing harbors and shelters, including 6 inside commercial ports.
- 1 marina at Sidi Fredj.
- 2,200 maritime traffic lights.

— Aerial

- 35 airports.
- 13 international. The most important is Algiers airport.

— Railways

10,500 km of railroad, of which:

- 4,200 km in service;
- 6,300 km under construction;
- 200 commercial stations operational.

— Tramways

- 4 tramways in service (Algiers, Oran, Constantine, Sidi Bel Abbés);
- 10 planned.

— Metro in Algiers

- 13.5 km in service;
- 4 extensions totaling 21.3 km under construction.

- **Telecoms**

The entire network has been digitized, with a national backbone of almost 200,000 km of fiber optic cable to be deployed nationwide by the end of 2021.

- **Fiber optic cabling:** Over 8,500 km.
- **Fixed line phones:** Nearly 4.9 million in Q1 2022, with a tele-density of about 10% (ARPCE). 5.36 million in Q3 2022, with a penetration rate of 12.15%.
- **Mobile phones:** Nearly 47.66 million in Q2 2022, with a penetration rate of 12.15%, according to the latest ARPCE report, compared to only 600,000 in 2001, representing a tele-density of over 95%.
- **Internet:** Nearly 48.5 million subscribers to fixed and mobile Internet were recorded in 2022, representing a 7.09% increase compared to 2021. The short-term objective is to widely democratize access to high and very high-speed Internet (ADSL). In addition to Algérie Télécom, other operators offer Internet access services, such as Icosnet in partnership with Algérie Télécom. Finally, all major equipment suppliers are present in Algeria.

- **Electricity**
  - 95% of the territory is electrified.
  - 99.4% of households are connected to the grid (2011).

- **Natural gas**
  - 55% of households are connected to the natural gas distribution network.

- **Print media**

  In terms of media, Algeria has fully benefited from the democratic opening and political pluralism established by the February 1989 Constitution.

  Press freedom is a clearly tangible reality. With around sixty daily newspapers and approximately 400 periodic publications, the media landscape is highly diversified. Private press accounts for a predominant share in the printed press. The cumulative circulation of daily newspapers is close to 2 million copies.

  It is worth noting that Law No. 12-05 of January 12, 2012, related to information, was abrogated by the recent Organic Law No. 23-14 of August 27, 2023, relating to information. The purpose of this law is to set out the principles and rules governing the activity of information and its free practice (Article 1).

  Law No. 23-19 of 18 Jumada El Oula 1445, corresponding to December 2, 2023, related to the written press and electronic press, sets the principles and rules governing the activity of written and electronic press and its free exercise.

- **Radio and television**

  At the national or local level, several radio stations broadcast a wide variety of programs: Channel 1 (in Arabic), Channel 2 (in Kabyle), Channel 3 (in French), Radio El Bahdja (in dialectical Arabic), Jil FM (in Arabic, Berber, and French, aimed at youth). Major regional or local hubs (Mitidja, Saoura, Soummam) also have their own radio stations. To carry Algeria's voice internationally, Algeria created Radio Algeria International, which has been broadcasting since March 2007.

  The Algerian Television Company (ENTV) is a public industrial and commercial establishment (EPIC) that operates a network of 5 regional channels and 4 national television channels: Canal Algérie, A3, Channel 4, and Coran TV, as well as TV6 (Youth Channel), TV7 (El Maarifa), TV8 (Memory Channel), and 1 test channel, EPTV Feed.

  There are also a few private channels licensed by the state, such as Ennahar TV, Echourouk TV, El Bilad TV, and others.

  Additionally, since the late 1980s, Algerians have been receiving programs from foreign television channels (mainly French and Arabic), which have become an almost essential part of the daily lives of both urban and rural residents.

  It should be noted that Law No. 14-04 of February 24, 2014, related to audiovisual media, was abrogated by Law No. 23-20 of December 2, 2023, related to audiovisual activities. This legislation aims to organize audiovisual activities and set the rules for its practice (Article 1).

- **Education**
  - Primary and secondary education: over 10 million pupils.
  - Higher schooling: over 1.696 million students (2022).

- **Health, hospital infrastructure, and medical coverage**

  Key figures: 13 University Hospital Centers (CHU) with 100,000 beds, the number of doctors is 1.3 per 1,000 inhabitants, the number of nurses is 2.23 per 1,000 inhabitants, and the number of dentists is 0.31 per 1,000 inhabitants.

  In July 2018, Law No. 18-11 on health, consisting of over 400 articles (addressing: Fundamental provisions and principles, health protection and prevention, protection of patients with mental or psychological disorders, health professionals, pharmaceutical products and medical devices, the organization and financing of the national health system, as well as ethics, medical ethics, and bioethics), was adopted. The aim of this law is to ensure the prevention, protection, maintenance, restoration, and promotion of people's health while respecting dignity, freedom, integrity, and privacy.

9.3. In terms of factor costs

- **Minimum guaranteed national wage (SNMG)**

  Salary paid per month: 20,000 DA/month (40-hour workweek).

  Note: It should be noted, however, that salaries are set through negotiations between the employer and the social partner within the framework of collective agreements.

- **Social and tax charges**

  Social security contribution (basis: payroll).

Branch	Employer's share %	Employee's share %	Social works fund share %	Total %
Social security	11,50	1,50	-	13
Work-related accidents and illnesses	1,25	-	-	1,25
Retirement	11	6,75	0,50	18,25
Unemployment insurance	1	0,50	-	1,50
Early retirement	0,25	0,25	-	0,50
Social housing fund (FNPOS)	0,50	-	-	0,50
Total	**25,5**	**9**	**0,50**	**35**

  Mutual insurance: 100 to 150 DA/month.

- **Global income tax (IRG)**

  The withholding tax is calculated by applying the monthly IRG (Income Tax on Salaries) scale to taxable amounts, and it is deducted at the time of each payment made by the employer. The withholding rate is 10% for performance bonuses and gratifications, which are paid on a frequency other than monthly, usually provided by employers, as well as for amounts paid to individuals who, in addition to their main salaried activity, engage in activities such as teaching, research, supervision, or assistance on a casual basis.

  The application of the 10% rate excludes the benefit of the tax deduction for employees and pensioners.

IRG progressive tax scale table [20]

Fractions of annual taxable income (in DA)	**Tax rate** (in %)
not exceeding 240 000	0
from 240 001 to 480 000	23
from 480 001 to 960 000	27
from 960 001 to 1 920 000	30
from 1 920 001 to 3 840 000	33
over 3 840 000	35

Note: A 50% deduction is granted to workers residing and working in the southern provinces: Adrar, Illizi, Tamanrasset, and Tindouf, with the exception of revenues from the mining and hydrocarbons sector (excluding activities related to the distribution and commercialization of petroleum and gas products) [21].

Salaries and wages, along with related elements, benefit from a proportional deduction on the IRG/S equal to 40%, with a minimum of 12,000 DA/year and a maximum of 18,000 DA/year (which corresponds to between 1,000 and 1,500 DA/month), regardless of the taxpayer's family situation.

- **Salary Accessories**

  Certain elements of remuneration are also provided by some employers according to variable percentages, depending on the paying entity and the sector of activity, such as the following bonuses and allowances:

  – Performance bonus.
  – Meal allowance.
  – Shift work allowance.
  – Transport allowance.
  – Zone allowance (southern regions).

9.4. In terms of prices

a) Of energies

— Electricity

– **The price excluding taxes (H.T.) of kWh**, in Algeria, for high voltage is still the lowest among the Mediterranean countries: 4.698 DA per Kilowatt/hour, according to Sonelgaz [22].
– **Service provider:** Sonelgaz (EPIC).
– **Transmission and distribution network:** 150,300 km.
– **Electrification network:** 97 %.
– **Renewable energy:** SHAEMS, a joint-stock company owned by Sonatrach and Sonelgaz, is tasked with implementing the national renewable energy program.

— Petroleum products

Service provider: National Company for Refining and Distribution of Petroleum Products: Naftal. [In accordance with Article 1 of Decree No. 87-189 of August 25, 1987, amending Decree No. 80-101 of April 6, 1980, as amended, establishing the National Company for Refining and Distribution of Petroleum Products, the name was changed

20 2022 Finance Law.
21 2013 Finance Law.
22 Ministry of Energy and Mines.

to "National company for marketing and distribution of petroleum products," still under the acronym NAFTAL].

Fuel prices: bulk price for users [23]

Fuel	Diesel	LPG fuel	Super / unleaded
Price at the pump DA/Liter	29,01	9	45,62

— **Water:** Service provider: Algérienne des eaux (ADE) and Société des Eaux et de l'Assainissement d'Alger (SEAAL).

– **Water prices by zone**

Territorial pricing zone	Alger, Oran, Constantine	Chlef	Ouargla
Base price in DA	6,3	6,1	5,8

– **Water prices by category and consumption band**

The scale of rates applicable to different user categories and quarterly consumption bands is determined by multiplying the base price by the rate coefficients.

Customer category	**Consumption band** in m^3	**Applicable rates** (Unit = base DA/m^3)
Domestic	1 to 25	1,0 unit
	26 to 55	3,25 units
	56 to 82	5,5 units
	> 83	6,5 units
Local administrations and authorities	Single band	5,5 units
Service sector	Single band	5,5 units
Industry - tourism	Single band	6,5 units

Also include a sanitation tax of around 1/3 of the total amount.

b) Of post and telecoms [24]

There are 4 service providers: Algérie Poste, Algérie Télécom, and two private mobile operators, OTA "Djezzy" and WTA "Ooredoo".

Postal establishments: 4,053 post offices as of December 31, 2021 (Algérie Poste). Number of postal accounts (CCP): 23.6 million as of December 31, 2021 (Algérie Poste).

The mobile telephony segment saw the effective introduction of 3G mobile telecommunications services, with the 3 operators present in the market receiving their operating licenses on December 2, 2013, and launching the commercial service on December 15, 2013. As for 4G mobile telecommunications services, licenses were granted to the 3 operators on May 23, 2016.

c) Of transportation

The pricing is determined by the nature of the goods being transported, the distance, the route, the tonnage being transported, the northern zone, the intervention zone, and the southern zone.

23 2020 Complementary Finance Law.
24 "2021 Post and Telecommunications Regulatory Authority" Report.

d) Loans forms and rates

— Medium and long-term investment loans

In the medium term, ranging from 2 to 7 years, the rate is lower than that applied for long-term loans. For the long term, which is over 7 years, the practice is free. The interest rate varies between 7% and 9% + 19% VAT on interest.

— Different types of loans

- Commercial discount credit.
- Cash facility.
- Overdraft.
- Campaign credit.
- Invoice advance.
- Title advance.
- Merchandise advance.
- Advance on public procurement delegation.
- Pre-financing credit for exports.
- Revolving pre-financing credit or specialized, if applicable, supported by a credit for the mobilization of receivables arising abroad (bill discounting).
- Signature credit (or indirect bank assistance to the company's treasury).
- Payment deferral guarantee.
- Guarantee: secured obligation, credit upon withdrawal, temporary admission, fictitious warehouse, etc.

The rediscount rate of the Bank of Algeria, set at 4% from 2004 to 2016, then at 3.5%, was reduced to 3.25% in March 2020, and to 3% in April 2020 [25].

e) VAT and customs duties on imported equipment [26]

	Common law in %	Law on investments in %
TVA	0 to 19	0 (tax exemption)
Customs duties	0 to 30	0

10. Economic policy: Evolution and trends

10.1. Evolution

After national independence, the first task was to break with the unequal social and economic organization that prevailed during the colonial era, consolidate the state, and provide it with the means to carry out economic transformation.

The option of a socialist economy was adopted with the nationalization of the means of production, the banking sector, the creation of a national currency, and the control of foreign exchange and foreign trade.

This was followed by the establishment of a planning system, which, starting in 1969, would form the basis of development plans spread over several years (four-year or five-year plans).

25 World Bank Report 2021.
26 2018 Finance Law.

Starting in 1966, the Algerian economy took a new direction, with the objectives of building a basic industry, agrarian reform, and independence from foreign influences.

The objective, in addition to national control over wealth and resources, was to improve the population's standard of living by maximizing employment opportunities for Algerians. In the hydrocarbons sector, an ambitious program was launched in 1978 to enhance the value of all categories of energy resources (oil, condensate, natural gas). This was a 30-year program with an estimated cost exceeding $35 billion, which was four times the outstanding debt already contracted at the time of its launch. Following the death of President Houari Boumédiène in December 1978, this plan was abandoned.

In 1986, with the collapse of oil prices, the vulnerability of the Algerian economy, characterized by its extreme dependence on its energy resources, became fully apparent and put the country in a state of near default.

The country was therefore forced to proceed with the rescheduling of its external debt, which was estimated at more than 25 billion USD in the early 1990s. This rescheduling, accompanied by a Structural Adjustment Program (SAP), painful for already weakened social groups, nevertheless allowed the annual debt service to be reduced by half.

This agreement, signed in 1994 with the IMF and international creditors, required Algeria to allocate a significant portion of its hydrocarbon export revenues annually until 2006. As a result, hundreds of thousands of jobs were lost, and the country's average income dropped drastically.

After the implementation of the SAP, the medium- and long-term external debt was reduced from 32.2 billion USD to 16 billion USD in 2005, 3.8 billion USD in 2010, and reached 1.5 billion USD in 2019.

At the same time, Algeria initiated a policy of liberalizing its foreign trade and established a legislative framework designed to support national private investors and enable the attraction of foreign capital for a gradual transition to a market economy.

Several legislative texts have thus been enacted or amended for this purpose:

- New law on investment and its implementing regulations;
- Executive decrees on the conditions and procedures for carrying out vehicle manufacturing and new vehicle dealership activities;
- Hydrocarbons law;
- Monetary and banking law.

10.2. The current Algerian economy

The third-largest economy in the Middle East and North Africa (MENA) region and a driving force in the Maghreb, Algeria is one of the few countries that has managed to reduce poverty by 20% in 20 years. The Algerian government has taken significant measures to improve the well-being of its citizens by implementing social policies in line with the United Nations' Sustainable Development Goals.

The oil boom also allowed it to clear its debt, invest in infrastructure projects, and improve its human development indicators.

Algeria has made remarkable progress on each of the key human development indicators. Ranked 83rd out of 188 countries in the 2016 Human Development Report by UNDP, it has joined the group of countries with a high level of human development. Furthermore, life expectancy at birth has increased by 16.6 years, and the average years of schooling have risen by 5.8 years.

With a net primary school enrollment rate of 97% in 2015 (and gender parity), the country achieved the goal of universal education — also displaying a high enrollment rate in higher education.

However, in the long term, the government will need to improve the quality of education provided, as Algeria ranked 71st out of 72 in the 2015 PISA study, which measures the skills of 15-year-olds in science and mathematics.

While the positive effects of this shared prosperity have contributed to the overall socio-economic stability of Algeria, the cost of the social programs and subsidies implemented is no longer sustainable since the drop in oil prices. The prolonged decline in global oil prices has forced adjustments to national economic models and triggered a series of reforms in oil-exporting countries in the MENA region to adapt to this new reality. In addition to the rapid depletion of its foreign exchange reserves, Algeria, like its neighbors, is experiencing a decline in hydrocarbon revenues, which have halved in recent years.

The current period has seen a decrease in public investment and equipment spending due to the drastic reduction in the state's financial resources caused by the drop in oil prices on the global market. The public treasury is now facing a recurring deficit, and even in the last two years, a severe liquidity crisis has hindered the implementation of projects.

Thus, in the last three years, approved investment program allocations have experienced successive reductions, from nearly 3,500 billion DA in 2015 to nearly 1,900 billion DA in 2016, and around 1,400 billion DA in 2017. This trend has been accompanied by a buildup of outstanding debts among several economic operators on various branches of the State.

To overcome this state treasury crisis and preserve the country's development momentum, and in light of the limitations of the domestic financial market, the government decided to resort to unconventional financing in 2017.

In this context, the country's economic development process continues in line with the action plan developed and published in September 2017 by the Prime Minister's office as part of the implementation of the President of the Republic's program.

The main economic guidelines in this action plan aim to maintain the growth momentum of the economy and develop non-hydrocarbon exports.

The main strategic axes of the development policy adopted are as follows:

I. Continuation of improving the business environment:

This necessarily involves:

- Improving the business climate
- Meeting the demand for industrial land
- Promoting domestic production of goods and services in the local market
- Encouraging non-hydrocarbon exports

II. Encouraging and facilitating productive investment in goods and services:

The means to be implemented are:

- Maintaining the advantages outlined in the investment code.
- Developing a territorial map of investment opportunities.
- Encouraging partnerships between public enterprises and private partners.
- Promoting partnerships with foreign investors.
- Strengthening standardization and industrial integration.
- Developing the energy economy.
- Developing the mining industry;
- Developing tourism and craftsmanship;
- Continuing the development of agriculture, rural areas, and fisheries.

III. Continuation of the development of basic infrastructure:

Transport: The government's effort will be focused on improving the passenger and freight transport system in the road, airport, port, and rail sectors. The goal will be to increase traffic and ensure the profitability of investments, particularly by improving road traffic conditions, the quality of public road transport services, and the development of other modes of transport (rail, maritime, and air).

Mobilization and distribution of water resources:

- The continuation of the construction of water mobilization infrastructure, with the capacity expected to increase from 8 to 9 billion cubic meters.
- The realization and maintenance of water supply networks for drinking water to increase the population's connection rate to potable water networks from 98% to 99%. The rehabilitation and expansion of existing sanitation networks to raise the connection rate from 91% to 94% of the population.
- The development of agricultural irrigation capacities, particularly through the expansion and rehabilitation of major irrigation areas.
- Conducting prospective studies related to the increasing population, which is projected to reach 50 million people by 2030.

11. Business legal environment

Algerian business law is largely based on civil law. The economic legislation, which is supplemented and/or amended, ensures the freedom of commerce while organizing the rules that must govern it, thus adhering to universal legal principles and standards. The freedom of commerce is not without the rules for the organization and establishment of commercial companies, just as free competition or the freedom of movement of goods is not without the regulation of capital transfers or abuse of dominant position.

Furthermore, Algeria has joined various international conventions, such as the Berne Convention for the Protection of Literary and Artistic Works, the Paris Convention for the Protection of Industrial Property, among others. The adaptation of the rules to the local and international economic environment is marked by a profusion of texts. As rules governing the key sectors for investment, we will briefly mention the rules related to the following areas:

11.1. Commercial activities

Among the legislative and regulatory provisions governing the exercise of commercial activities, the following can be cited, in particular:

- Order No. 75-59 of September 26, 1975, as amended and supplemented, establishing the Commercial Code.
- Law No. 04-08 of August 14, 2004, as amended and supplemented [27], relating to the conditions for exercising commercial activities, which sets, among other things, the basic rules applicable to registration in the commercial register.
- Law No. 04-02 of June 23, 2004, as amended and supplemented, establishing the rules applicable to commercial practices to regulate professions and commercial activities requiring specific regulations.

27 Order No. 10-01 of August 26, 2010, and Law No. 13-06 of August 14, 2004.

– Executive Decree No. 15-111 of May 3, 2015, establishing the procedures for registration, modification, and removal from the commercial register.

The conditions for registration in the commercial register, as well as those related to the exercise of commercial activities and the status of foreign traders, are described in more detail in Chapter 3 [28].

11.2. Foreign trade

The regulatory framework for foreign trade has undergone gradual transformations, positioning the Algerian economy in a context of openness. Since 1991, the abolition of the state monopoly on foreign trade has led, in particular, to:

– The elimination of administrative measures regulating foreign trade (AGI, licenses, import and export programs).
– The revision of the customs tariff.

The dismantling of the state's monopoly on foreign trade was definitively established in 1994 as part of the structural adjustment program, which allowed the free convertibility of the Algerian dinar for trade transactions and free access to foreign currency for all economic operators.

In order to preserve the country's foreign exchange reserves, the government has implemented a policy aimed at reducing imports through a series of restrictive measures, including the introduction of an import licensing system initially and the establishment of a provisional safeguard additional duty (DAPS). This duty applies to the importation of goods for consumption in Algeria, with a rate set between 30% and 200%.

11.3. Competition and market transparency

In 2003, Order No. 03-03 of July 19, 2003, was promulgated, amended and supplemented, repealing Order No. 95-06 of January 25, 1995. This text sets the conditions for competition in the market, prevents and sanctions restrictive practices, and regulates economic concentrations. In June 2008, a new law regarding competition was introduced to amend and supplement the 2003 ordinance mentioned above. This law applies to activities in production, distribution, and services.

In terms of prices, the legislation establishes the freedom of prices for goods and services, which are determined by the forces of competition. To this end, this ordinance grants all these powers to the Competition Council.

Apart from the aforementioned rules, the Commercial Code and the Civil Code [29], Algerian business law is framed by specific and/or related legislations for each field of activity, such as foreign direct investments in Algeria, the establishment of foreign traders, exchange regulations, insurance, etc. These legislations will be studied in the following chapters.

28 See Chapter 3: 4. Status of Foreign Traders. Page 63 ↗
29 The texts governing them are respectively Order No. 75-59 of September 26, 1975, establishing the Commercial Code, as amended and supplemented, and Order No. 75-58 of September 26, 1975, establishing the Civil Code.

CHAPTER 2

Legal forms of establishment

1. Commercial companies

1.1. Common features of all commercial companies

a) Incorporation of the company

- **Corporate name**

  A corporate name that has already been registered with the National Commercial Register Center by another company or business cannot be chosen. Consequently, a certificate of name reservation, valid for six months, must be issued by the National Commercial Register Center. The corporate name must necessarily be followed by the company's legal form.

- **Corporate purpose**

  The corporate purpose is freely determined, provided that it complies with the conditions set for activities subject to specific regulations. It must include all commercial activities the company intends to carry out, chosen from the activity codes listed in the Algerian classification of economic activities.

  The corporate purpose must be clearly defined in the company's constitutive act, which is drawn up by a notary in Algeria. Only homogeneous activity codes will be registered in the company's commercial register. The registration of regulated activity codes is subject to obtaining an authorization or approval, as applicable [30].

  If the intended corporate purpose does not correspond to any activity code listed in the classification of economic activities (NAE), a request may be submitted to the Directorate of the National Commercial Register Center to create the required activity code.

  The NAE was updated pursuant to the Order of November 13, 2022, regarding the revision of the classification of economic activities subject to registration in the

30 See Chapter 3: 2. Regulated Activities, Page 61. ↗

Commercial Register. This update incorporates the introduction of new categories of activities, including those designated as itinerant activities.

- **Contributions**
  - **Cash contributions:** The funds from cash subscriptions are deposited either with a notary or with a financial institution. For non-resident shareholders or partners, the funds are deposited into a holding account opened in the name of the company in formation at an Algerian commercial bank.
  - **Contributions in kind:** One or more contribution auditors are appointed by court decision upon request from the founders or one of them. They assess, under their responsibility, the value of the contributions in kind. Their report is attached to the articles of association.
  - **Contributions in industry:** Applicable only to partnerships and to limited liability companies (SARL) since 2016 [31].

  Note: The amount of share capital is determined by the Commercial Code or by specific regulations. Depending on the company's legal form, a minimum amount may be required or not.

- **Articles of incorporation**

  The Articles of Incorporation are signed by all shareholders or partners, either in person or by an authorized representative holding a special power of attorney, and must be executed by an authentic act before a notary in Algeria. The first directors, or the manager and the auditor, or the domain representative in the case of public capital companies where such a designation is mandatory [32], are appointed in the Articles of Incorporation.

  Documents commonly required by notaries for the incorporation of the company must be provided to the notary chosen by the shareholders.

b) Legal personality of the company

The registration of the company in the commercial register is required for the company to enjoy legal personality and the associated rights and obligations, both for the company as a legal entity and for the shareholders and directors as natural persons.

Responsibilities: Directors or managers are individually or jointly liable, as the case may be, to the company and to third parties for violations of legal provisions, breaches of the articles of incorporation, or any faults committed in the course of their management.

c) Company control

Depending on their legal form, companies are required to appoint one or more auditors. Generally, their permanent mission, excluding any interference in management, is to verify the company's books and assets and to ensure the regularity and accuracy of the company's accounts.

They also verify the accuracy of the information provided in the report of the board of directors or the management board, as applicable, and in the documents sent to shareholders regarding the financial situation and the accounts of the company.

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31 Article 567 bis of Law No. 15-20 of December 30, 2015 amending and supplementing Ordinance No. 75-59 of September 26, 1975, on the Commercial Code.

32 Under the provisions of the Finance Law for 2010, EURLs, as well as companies with a turnover of less than 10 million DA, are not required to have their accounts certified by an auditor. However, the auditor's report is still part of the list of documents required for the submission of a request for the transfer of dividends abroad.

They certify the regularity and accuracy of the inventory, the financial statements, and the balance sheet. Auditors ensure that equality has been respected between shareholders or partners.

They may, at any time during the year, conduct the verifications and checks they deem appropriate. They may also convene the general meeting in case of urgency.

Under Article 66 of the 2011 Finance Law, the obligation of appointment is explicitly affirmed for limited liability companies (SARL): "The general meetings of limited liability companies (SARL) are required to appoint, for a term of 3 fiscal years, one or more auditors chosen from professionals listed on the roll of the National Chamber of Auditors."

In anticipation of the appointment of the auditor(s) by the general meeting, the board of directors, management board, manager, or authorized body is required to prepare a specification, within a maximum of 1 month after the closing of the last fiscal year of the auditor(s)' mandate, pursuant to the provisions of Executive Decree No. 11-32 of January 27, 2011, concerning the designation of auditors.

The appointment of the first auditor(s) at the incorporation of the company is exempt from the procedure outlined above.

In the absence of the appointment of auditors by the general meeting or in case of impediment or refusal by one or more appointed auditors, their appointment or replacement is carried out by order of the president of the court at the registered office of the limited liability company.

Companies with a turnover of less than 10 million DA are not required to have their accounts certified by an auditor.

1.2. Joint-stock company (SPA)

The SPA is governed by Articles 592 and following of the Commercial Code, which defines it as "a company whose capital is divided into shares and is formed between shareholders who bear losses only up to the amount of their contributions." It may be established by making a public offering. Only the rules governing a SPA that does not make a public offering will be mentioned in this document.

1.2.1. Number of shareholders

The number of shareholders cannot be less than 7, except for publicly owned companies.

1.2.2. Share capital

The share capital of a SPA that does not make a public offering must be at least 1 million DA. It must be fully subscribed.

Cash contributions must be paid up to at least one-quarter of their nominal value at the time of subscription. The remaining amount is to be paid in one or more installments, as decided by the board of directors or the executive board, as applicable, within a maximum period of 5 years from the company's registration in the commercial register.

Shares issued as contributions in kind must be fully paid upon issuance.

1.2.3. Management of the SPA

Shareholders founding a SPA can choose between two management systems:

– A management structure with a board of directors and a chairman.
– A management structure with an executive board and a supervisory board.

a) Management with a board of directors and a chairman

• Board of directors

The Board of Directors is composed of at least 3 members and no more than 12 members.

– **Appointment:** Board members are elected by the constitutive general assembly or the ordinary general assembly. Their term of office is determined by the articles of association but cannot exceed 6 years.

A natural person cannot simultaneously be a member of more than five boards of directors of SPAs with their registered office in Algeria. No nationality requirement is imposed.

A legal entity may be appointed as a director, provided that it designates a permanent representative, who must be a natural person and is subject to the same conditions and obligations. This representative bears the same civil and criminal liability as if they were a director in their own name.

A director cannot be granted an employment contract by the company after their appointment. However, an employee who is also a shareholder in the company may be appointed as a director only if their employment contract predates their appointment by at least one year and corresponds to an actual job position.

– **Guarantee shares:** The minimum number of shares each director must hold is set by the articles of association, but the shares held by all directors combined must represent at least 20% of the share capital.

These shares serve as a guarantee for all management actions, even those that are exclusively personal to a particular director. They are non-transferable.

If a director does not own the required number of shares at the time of appointment or loses ownership of them during their mandate, they are automatically considered to have resigned, unless they regularize their situation within three months.

– **Removal:** Directors may be removed at any time by the ordinary general assembly of shareholders.

– **Powers:** The Board of Directors is granted the widest powers to act in all circumstances on behalf of the company; it exercises these powers within the limits of the corporate purpose and subject to those expressly assigned to the shareholders' assemblies.

Any provisions in the articles of association that limit the powers of the board are not enforceable against third parties.

– **Regulated agreements:** The company's directors may not, under any circumstances, take out loans from the company, obtain an overdraft facility from it, or have the company guarantee or endorse their commitments to third parties.

Except for normal agreements related to the company's operations with clients, any agreements entered into between the company and one of its directors, whether directly or indirectly, must, under penalty of nullity, be subject to prior approval by the general meeting after the auditor's report.

The same applies to agreements between the company and another company if one of the company's directors is an owner, partner (whether majority or minority), manager, director, or administrator of that other company. Any director involved in such a situation must declare it to the board of directors.

The auditors present a special report to the general meeting on the agreements thus authorized. The concerned shareholder(s) may not participate in the vote, and the shares they hold are not counted in the calculation of the quorum and the majority

– **Remuneration:** The general assembly allocates to the directors, as compensation for their activities, an annual fixed sum in the form of attendance fees, and may also, in the event of dividend distribution, provide for the payment of bonuses, subject to not exceeding one-tenth of the distributable profit, after deducting reserves and amounts carried forward. The board of directors is responsible for distributing the amounts among its members.

  The board of directors may also allocate exceptional remuneration to directors for missions or mandates entrusted to them, provided that the operation is approved by the general assembly.

  More generally, the board of directors may authorize the reimbursement of travel and transportation expenses and any costs incurred by directors in the interest of the company.

– **Quorum and majority:** The board of directors can only validly deliberate if at least half of its members are present. The Articles of Association specify the majority required for decision-making. In the absence of such provisions, decisions are made by a majority of the votes of the members present. In the event of a tie, the chairman's vote is decisive.

• Chairman of the board of directors

– **Appointment:** The Board of Directors elects from among its members a chairman who, under penalty of invalidity of the appointment, must be a natural person. The Board determines their remuneration. The chairman is appointed for a term that may not exceed the duration of their mandate as a director. The chairman is eligible for re-election.

– **Removal:** The Board of Directors may remove the chairman at any time. Any provision to the contrary is deemed to be unwritten.

– **Powers:** The chairman of the Board of Directors assumes, under their responsibility, the general management of the company. The chairman represents the company in its dealings with third parties.

  Subject to the powers explicitly granted by law to the shareholders' meetings and the special powers reserved by law for the Board of Directors, and within the limits of the corporate purpose, the chairman is vested with the broadest powers to act in all circumstances on behalf of the company.

  Provisions in the Articles of Association or decisions of the Board of Directors that limit the chairman's powers are not enforceable against third parties.

b) Management composed of an executive board and a supervisory board

• Executive board

– **Appointment:** The joint-stock company (SPA) is managed by an executive board composed of 3 to 5 members and operates under the supervision of a supervisory board. The Articles of Association set the duration of the executive board's mandate within the range of 2 to 6 years. In the absence of such a provision, the mandate duration is 4 years. The members of the executive board, who must be natural persons, are appointed by the supervisory board, which designates one of them as the president.

– **Removal:** The members of the Executive Board may be removed by the General Meeting upon the proposal of the Supervisory Board.

– **Powers:** The Executive Board is vested with the broadest powers to act at all times on behalf of the company, within the limits of the corporate purpose and those specifically assigned by law to the Supervisory Board and the General Meetings. The provi-

sions of the articles of association limiting the powers of the Executive Board are not enforceable against third parties.

- **Liability:** In the event of judicial liquidation or bankruptcy, the members of the Executive Board may be held liable for the company's debts.
- **Regulated agreements:** Any agreement between the company and one of the members of the Executive Board, or between the company and another company in which one of the members of the Executive Board of the company is an owner, partner, manager, director, or general director, must be submitted for prior approval by the Supervisory Board.

  It is prohibited for members of the Executive Board, other than legal entities, to borrow from the company in any form or to have their personal commitments towards third parties guaranteed or endorsed by the company. The President of the Supervisory Board shall inform the statutory auditors of all approved agreements and submit them for approval by the General Meeting.

  The statutory auditors shall present a special report on these agreements to the General Meeting, which will make a decision on the report.
- **Remuneration:** The act of appointment sets the method and amount of remuneration for the members of the Executive Board.
- **Quorum and majority:** The Executive Board deliberates and makes decisions in accordance with the conditions established by the articles of association.
- **Powers of the president:** The role of the President of the Executive Board does not grant its holder a broader scope of authority than that of the other members of the Executive Board.

• Supervisory board

- **Appointment:** The supervisory board is composed of a minimum of 7 members and a maximum of 12 members, who may be natural or legal persons represented by natural persons. They are elected by the founding general meeting or by the ordinary general meeting for a maximum term of 6 years and may be re-elected, unless otherwise stipulated in the Articles of association. No member of the supervisory board may also be a member of the executive board.
- **Guarantee shares:** Their number and method of determination are identical to those provided for the board of directors.
- **Revocation:** Members of the supervisory board may be revoked at any time by the ordinary general meeting.
- **Powers:** The supervisory board exercises permanent control over the company. The Articles of associations may require the prior authorization of the supervisory board for the conclusion of acts it specifies, including all acts of disposal. It carries out the checks it deems necessary and may request any document.
- **Regulated agreements:** The provisions relating to members of the executive board also apply to members of the supervisory board. Responsibilities are also identical.
- **Remuneration:** The general assembly may allocate a fixed sum to the members of the supervisory board as remuneration for their activities.

  The supervisory board may also grant exceptional remuneration for specific missions or mandates entrusted to its members.
- **Quorum and majority:** The supervisory board may only deliberate validly if at least half of its members are present. Unless otherwise stipulated in the Articles of associ-

ation, decisions are taken by a majority of the members present or represented, and in case of a tie, the president's vote is decisive.

– **Presidency:** The supervisory board elects a president from among its members, who is responsible for convening the board and leading its discussions. The president's term of office coincides with the term of the supervisory board.

1.2.4. Rights of shareholders

a) Right to information

The law determines the list of documents or information that must be communicated or made available to shareholders by the board of directors or the executive board.

b) Exercise of voting rights

The Articles of Association may limit the number of votes each shareholder is entitled to in general meetings, provided that this limitation applies uniformly to all shares, without distinction of classes, in accordance with the applicable regulations.

Shareholders' decisions are made in meetings, convened by the board of directors or the executive board, at least 35 days before the meeting date.

- **Extraordinary general meeting**

  The extraordinary general meeting is the sole body authorized to amend the Articles of association in all of their provisions; any contrary clause is deemed to be non-existent. It can only deliberate validly if the shareholders present or represented hold at least half of the shares with voting rights on the first call, and at least one-quarter on the second call. Resolutions are passed by a two-thirds majority of the votes cast.

- **Ordinary general meeting**

  The ordinary general meeting can only deliberate validly on the first call if the shareholders present or represented hold at least one-quarter of the shares with voting rights. On the second call, no quorum is required.

  Resolutions are passed by a majority of the votes cast.

  The ordinary general meeting must be held at least once a year, within six months of the end of the fiscal year, to approve the financial statements. This period may be extended by a court decision. The meeting will present the report of the board of directors or the executive board, the income statement, the summary documents, and the balance sheet, as well as the report of the auditors.

  The financial statements mentioned in the 1st paragraph must be filed with the CNRC within one month following their adoption by the general meeting. Such filing constitutes official publication.

c) Financial rights

Shareholders are entitled to dividends, reserves, proceeds from asset sales, and liquidation surplus.

1.2.5. Conditions for transfer of shares

– **Substantive conditions:** Except in cases of inheritance or transfer to a spouse, ascendant, or descendant, the transfer of registered shares to a third party, for any reason, may be subject to the company's approval through a provision in the Articles of association, regardless of the method of transmission.

If an approval clause is stipulated in the Articles of association company's, a request for approval must be notified to the company. Approval results from a notification of acceptance of the request, or, in the absence of such acceptance, from the company's silence for a period of 2 months from the date the request is notified.

– **Formal conditions:** In Algerian practice, the transfer of registered shares is usually formalized by a notarial deed. It becomes enforceable against the company and third parties only after being served on the company or accepted by it in a notarial deed.

  The deed of transfer is subject to a registration fee of 2.5%, and one-fifth (1/5) of the sale price must be held by the notary for approximately 6 weeks as security for any taxes that may be owed by the transferor to the Algerian Treasury.

1.2.6. Modification of share capital

a) Increase in capital

It is carried out either by issuing new shares upon decision of the extraordinary general meeting, or by increasing the nominal value of existing shares, decided with the unanimous consent of the shareholders. It can be realized:

– Either in cash;
– Or by offsetting with liquid and due debts owed to the company;
– Or by incorporating reserves, profits, or share premium;
– Or by contribution in kind;
– Or by converting bonds, with or without privileges.

The board of directors does not have the power to decide on the increase of capital but may be delegated all powers by the general meeting to carry out a capital increase decided by the general meeting.

The law sets the concrete modalities for implementing the increase in share capital.

Shareholders are entitled to a preferential subscription right, but they may individually waive this right.

b) Reduction of capital

The reduction of capital is authorized by the extraordinary general meeting, which may delegate to the board of directors or the executive board, as the case may be, all powers to implement it, provided that it does not affect the equality of shareholders.

When the general meeting approves a capital reduction project not motivated by losses, representatives of the bondholders and creditors whose claims are prior to the date of the filing of the minutes of the meeting at the National Center for Trade Registration may object to the reduction of capital within 30 days.

c) Loss of three-quarters of the share capital

If, due to losses recorded in the financial statements, the net assets of the company become less than a quarter of the share capital, the board of directors or the executive board is required, within 4 months following the approval of the accounts that revealed this loss, to convene an extraordinary general meeting to decide, if necessary, on the early dissolution of the company.

If dissolution is not declared, the company is required, at the latest by the closure of the second fiscal year following the year in which the losses were recorded, and subject to the above provisions, to reduce its capital by an amount at least equal to the losses that could not be charged against reserves, if, within this period, the net assets have not been restored to a value at least equal to a quarter of the share capital.

1.2.7. Restructuring of the SPA

a) Transformation

Any SPA may transform into another form of company if, at the time of transformation, it has been in existence for at least 2 years and has prepared and had approved by the shareholders the financial statements for its first two fiscal years.

The decision to transform is made based on the report of the auditor confirming that the net assets are at least equal to the share capital.

Transformation into a general partnership requires the consent of all partners.

Transformation into a simple limited partnership (SCS) or a partnership limited by shares is decided under the conditions provided for the amendment of the Articles of association and with the agreement of all partners who agree to become general partners.

Transformation into a limited liability company is decided under the conditions provided for the amendment of the Articles of association of companies of this form.

b) Merger and split

The SPA, even in liquidation, may be absorbed by another company or participate in the formation of a new company through a merger.

It may also contribute its assets to existing companies or participate with them in the formation of new companies through a mergersplit.

It may finally contribute its assets to new companies through a split. These operations may be carried out between companies of different forms. They are decided by each of the companies involved, under the conditions required for the amendment of its articles of association.

If the operation involves the creation of new companies, each of them is constituted according to the rules specific to the adopted form of company.

c) Dissolution

Apart from the various cases of judicial dissolution, the dissolution of the company results from the statutory term or from a decision of the extraordinary general meeting of shareholder.

1.2.8. Control of the SPA

The ordinary general meeting of shareholders must appoint, when required, one or more auditors for three financial years, selected from among the professionals registered on the national board.

In general, their permanent mission, excluding any interference in management, is to examine the company's books and assets and to verify the regularity and accuracy of the financial statements.

They also verify the accuracy of the information provided in the report of the board of directors or management, as applicable, and in the documents sent to shareholders, regarding the company's financial situation and accounts.

They certify the regularity and accuracy of the inventory, financial statements, and balance sheet.

The auditors ensure that equality has been respected among the shareholders. They may carry out any verifications and checks they deem appropriate at any time during the year.

Likewise, they may call the general meeting in cases of urgency.

1.3. Limited liability company (SARL)

It is governed by Articles 564 and subsequent provisions of the Commercial Code, as amended and supplemented. It is established by two or more partners, who are liable for the losses only up to the amount of their contributions.

1.3.1. Number of partners

The company may have only one partner when it takes the form of a single-member company (see EURL below). The number of partners cannot exceed 50.[33] If the company exceeds 50 partners, it must, within one year, be transformed into a joint-stock company (SPA). Otherwise, the company will be dissolved unless, during the said period, the number of partners has been reduced to 50 or fewer.

1.3.2. Share capital

The share capital of the SARL is no longer limited to a minimum threshold of 100,000 DA. From now on, it is up to the partners to freely determine the amount by mutual agreement (Article 566). It is divided into shares, the nominal value of which is set by the partners.

The capital can be constituted in the form of cash contributions, contributions in kind, or industrial contributions. The subscribed shares must be paid up at least one-fifth of their value. The remaining amount must be paid in one or more installments, as decided by the manager, within a period not exceeding 5 years from the date of registration of the company in the commercial register.

It is worth noting that the contribution in industry is a new feature introduced in 2016. The valuation of its value and the determination of the share it generates in the profits are specified in the company's articles of association. This contribution does not form part of the company's capital.

1.3.3. Management

- **Appointment:** The manager(s), who must be natural persons, may be chosen from among the partners or external parties. They are appointed in the articles of association or following a general meeting, by a majority of partners representing more than half of the share capital.
- **Revocation:** The manager can be revoked by a decision of the partners representing more than half of the share capital. If the revocation is decided without just cause, it may give rise to compensation for the harm suffered. Furthermore, the manager can be revoked by the courts for legitimate reasons at the request of any partner.
- **Powers:** In relations between partners: The powers of the managers are determined by the Articles of association. In the absence of statutory limitations, the manager may perform all acts of management in the interest of the company. In the case of multiple managers, each of them separately holds the power to represent the company. However, each manager has the right to oppose any operation before it is concluded.

  In relations with third parties: The manager is vested with the broadest powers to act at all times on behalf of the company, subject to the powers expressly granted by law to the partners.

  The company is bound even by acts of the manager that fall outside the company's purpose, unless it proves that the third party knew or should have known that the act exceeded this purpose, considering the circumstances. It is excluded that the mere publication of the Articles of association constitutes such proof.

33 In accordance with the provisions of Law No. 15-20 of 30 December 2015.

Statutory provisions limiting the powers of the managers are not enforceable against third parties. In the case of multiple managers, an opposition raised by one manager to the actions of another is ineffective with respect to third parties, unless it is proven that they were aware of it.

– **Regulated agreements:** The law does not expressly prohibit agreements made between the company and the manager, but it criminally punishes the manager who, in bad faith, uses the company's assets for personal purposes or to benefit another company in which he is, directly or indirectly, interested.

  If the bankruptcy of the company reveals an insufficiency of assets, the court may, at the request of the trustee, decide that the social debts will be borne, up to an amount determined by it, by the managers, whether partners or not, employees or not.

  To discharge their liability, the involved managers and partners must prove that they have applied the activity and diligence of an employee agent to the management of the company's affairs.

1.3.4. Rights of partners

a) Right to information

Every partner has the right to access and obtain copies of certain documents, including accounting documents, for which they may be assisted by an expert during the examination.

b) Modalities for exercising the right to vote

By meeting: Decisions of the partners are made in a meeting, convened by the manager or one or more partners representing at least one-quarter of the share capital, at least 15 days before the meeting. A partner may be represented only by another partner or their spouse, unless the Articles of association expressly designate another person.

By written consultation, the law allows for written consultation of the partners if the Articles of association provide for it.

- **Annual general meeting for the approval of accounts**

  Decisions are adopted by one or more partners representing more than half of the share capital.

  The report on the operations of the financial year, inventory, general operating account, income statement, and balance sheet, prepared by the managers, is submitted for approval by the partners in a meeting, within 6 months of the end of the financial year. An extension of this deadline may be granted by a court decision.

  The conditions for filing and publishing the financial statements are the same as those set for public limited companies (SPA).

- **Extraordinary general meeting**

  Amendments to the Articles of Association are decided by a majority of partners representing three-quarters of the share capital. Certain extraordinary decisions must be preceded by a report prepared by a statutory auditor on the company's situation.

c) Financial rights

The partners of the SARL are entitled to equal rights to dividends. The terms for the payment of dividends approved by the general meeting are determined by the meeting itself or, failing that, by the manager(s). The payment of dividends must occur within a maximum period of 9 months after the end of the financial year. An extension of this deadline may be granted by a court decision. However, it is prohibited to stipulate a fixed interest, whether or not in favor of the partners.

1.3.5. Transfer of shares

– **Substantive conditions:** The shares are nominative and may be freely transferred by inheritance or transferred freely among shareholders, between spouses, and between ascendants and descendants, unless the articles of association contain a clause requiring approval. They may only be transferred to third parties outside the company with the consent of the majority of shareholders holding at least three-quarters of the share capital.

  If the company refuses to consent to the transfer, the shareholders are required, within 3 months of this refusal, to acquire or have the shares acquired at a price determined by an authorized expert, appointed either by the parties or, in the absence of an agreement, by an order from the president of the court at the request of the most diligent party.

  The company may also decide, with the consent of the transferring shareholder, to reduce its capital by the amount of the value of the shares of that shareholder and repurchase those shares at the price determined under the conditions above.

– **Formal conditions:** Share transfers can only be validated by a notarial deed. They are only enforceable against the company and third parties after being notified to the company or accepted by the company in an authentic deed. The deed of transfer of shares is subject to a registration fee of 2.5%, and one-fifth of the sale price must be deposited with the notary for approximately 6 weeks as a guarantee for any taxes that may be due by the transferor to the Algerian public treasury.

1.3.6. Modification of share capital

a) Capital increase

The share capital may be increased or reduced by unanimous decision of the partners in a general meeting, following the conditions required for amending the articles of association.

The capital increase can be carried out through the subscription of new shares in cash or by contributions in kind. The costs related to this increase must be amortized no later than the end of the fifth financial year following their incurrence.

b) Capital reduction

The capital reduction is decided by the extraordinary general meeting of the partners and must not affect their equality. This reduction can be carried out even in the absence of losses. In such cases, creditors whose claims predate the filing of the meeting minutes with the registry may oppose the reduction within one month from the date of filing.

The court may either reject the opposition or order the repayment of debts or the provision of guarantees if the company offers them and they are deemed sufficient.

A company is prohibited from purchasing its own shares. However, the meeting that has decided on a capital reduction not motivated by losses may authorize the manager to buy back a certain number of shares for cancellation.

c) Loss of three-quarters of share capital

In the event of a loss of three-quarters of the share capital, the managers must consult the partners to decide whether to dissolve the company. Regardless of the decision taken, it must be published in a newspaper authorized to carry legal notices in the wilaya of the company's registered office, filed with the court registry, and recorded in the commercial register.

1.3.7. Restructuring of the SARL

a) Transformation

A company with more than 50 partners must, unless dissolved, be converted into a joint-stock company (SPA) within one year. Decisions to transform the company into another legal form must be approved by the majorities required for extraordinary general meetings and must be preceded by an expert's report, except in the case of transformation into a general partnership, which requires the unanimous consent of the partners.

b) Merger and split

A SARL, even in liquidation, may be absorbed by another company or participate in the formation of a new company through a merger. It may also contribute its assets to existing companies or take part in the creation of new companies through a demerger-merger.

Additionally, it may contribute its assets to new companies through a demerger. These operations may take place between companies of different legal forms. Each company involved must approve the transaction under the conditions required for amending its articles of association. If the transaction involves the creation of new companies, each must be incorporated according to the rules specific to its chosen legal form.

c) Dissolution

In addition to various cases of judicial dissolution (loss of three-quarters of the share capital, reduction of the share capital below the legal minimum), the dissolution of the company results from the statutory term or is decided by the partners.

However, neither the death of a partner nor the consolidation of all shares of the SARL into a single shareholder leads to the dissolution of the company.

1.3.8. Control of the SARL

The ordinary general meeting of partners must appoint, for a period of three financial years, one or more statutory auditors chosen from professionals registered with the national order.

Primarily, statutory auditors have a permanent mission, without interfering in management, to verify the company's books and assets and to ensure the accuracy and fairness of the financial statements.

They also verify the reliability of the information provided in the management report and other documents sent to partners regarding the company's financial situation and accounts. They certify the accuracy and fairness of the inventory, financial statements, and balance sheet.

Statutory auditors ensure that equality among partners is maintained. They may, at any time during the year, carry out the verifications or controls they deem necessary. Likewise, they have the authority to convene the general meeting in case of urgency.

1.4. Single-member limited liability company (EURL)

Algerian law, through Ordinance No. 96-27 of December 9, 1996, established the principle of a limited liability company formed by a single shareholder. Consequently, it amended Articles 564 and following of the Commercial Code concerning limited liability companies.

When a limited liability company consists of only one person as the sole shareholder, it is referred to as a "Single-Member Limited Liability Company" (EURL).

The legal principles and operating procedures of the EURL and the SARL are therefore the same, except for the following points:

– The shareholder: A natural person can only be the sole shareholder of one EURL. An EURL cannot have another EURL as its sole shareholder.
– The sole shareholder exercises the powers vested in the general meeting of shareholders and cannot delegate these powers. The decisions taken in place of the general meeting must be recorded in a register.
– The sole shareholder must approve the financial statements [34] within six months from the end of the financial year.
– The manager: The sole shareholder may serve as the company's manager if they are a natural person. They may also appoint a third party as the manage.

1.5. Simple limited partnership (SCS)

The SCS is governed by Articles 563 bis and following of the Commercial Code. Although this legal form is rarely used in Algeria, it allows for the combination of entrepreneurs willing to take risks with their personal assets as general partners, under the condition that they can achieve significant profits. Meanwhile, limited partners seek to limit their risks while sharing in the profits.

An SCS consists of two categories of partners: general partners and limited partners. General partners have the status of partners in a general partnership, hold the merchant status, and bear unlimited liability—or even joint and several liability if there are multiple general partners. Limited partners, on the other hand, do not have merchant status and are only liable for the company's debts up to the amount of their contributions. The minimum number of partners is two, consisting of at least one general partner and one limited partner.

The Commercial Code does not impose a minimum amount for the share capital. General partners can make all types of contributions (in-kind, cash, or industry), whereas limited partners are not allowed to contribute through industry. The share capital is divided into shares, which can be transferred with the consent of all partners. However, the SCS's Articles of association may stipulate that limited partners' shares can be freely transferred among partners. The bylaws may also require that the transfer of shares to third parties be subject to the approval of all general partners and the majority of limited partners.

The manager may be chosen from among the general partners or may be an external party. A limited partner cannot be a manager, as they are not supposed to be involved in the company's management. If a limited partner participates in the management, their liability will no longer be limited, and they will be held jointly and severally liable alongside the general partners for all management acts. However, this does not mean that limited partners must passively observe the company's management. They can monitor the management and participate in collective decisions, which must be taken in accordance with the Articles of association.

An SCS often results from the transformation of a general partnership (SNC), particularly when, upon the death of a partner, the heir cannot acquire merchant status for various reasons (e.g., being a minor or practicing a regulated profession). Since the heir may not wish to assume unlimited liability for the company's debts, the partners of the SNC may agree to transform it into a SCS, where they become general partners while the heir becomes a limited partner. In this case, the limited partner's liability is restricted only to their contribution, which is usually the inheritance received from the deceased partner.

34 The 2010 Finance Law cancels the requirement for account certification by a statutory auditor for single-member limited liability companies (EURLs).

1.6. Partnership limited by shares (SCA)

Partnership limited by shares Is regulated by Articles 715 ter and following of the Commercial Code. The creation of this type of company is considered when limited partners, founders of economic groups, reserve an extraordinary management power in order to block an unsolicited public takeover bid (OPA). As long as the management power is held by the limited partners, even if the share capital is owned by the general partners, third parties will be discouraged from attempting to acquire the company.

The SCA has a capital divided into shares. It consists of two categories of partners. First, there are one or more limited partners who have the same status as partners in a general partnership (SNC). They are allowed to make all types of contributions, including contributions in industry. Their social rights are not represented by negotiable securities. They are, by nature, considered traders and are personally, indefinitely, and jointly liable for the company's debts.

Next, there are the general partners, of whom there must be at least three. They have the same status as shareholders in a joint-stock company (SPA). As a result, their contributions may be in cash or in kind. They are not considered traders, and their liability is limited to the amount of their contributions. The shares they hold are freely negotiable, and their regime is identical to that of shares issued by public limited companies (SPA), with the possibility of including a clause of approval in the company's bylaws.

The rules applicable to public limited companies (SPAs) concerning the minimum capital and public offerings also apply to SCAs.

The rules governing the administration of a SCA are straightforward. This type of company is not required to establish structured corporate bodies such as a board of directors or a chairman-CEO. One or more managers are chosen from among the limited partners or from outside the company. Unless otherwise specified in the bylaws, the manager(s) are appointed by the ordinary general meeting with the agreement of all the limited partners.

Generally, the manager can be dismissed under the conditions provided in the bylaws; however, the general partners always have the possibility to reach an agreement to irrevocably maintain the manager. That said, the limited partners are excluded from the general meetings unless they hold shares in addition to their social parts.

The extraordinary general meeting (EGM) is not authorized to amend the bylaws without the unanimous consent of the limited partners, unless otherwise specified in the bylaws. The limited partners are also excluded from the supervisory board, which consists of at least three shareholders, appointed by the ordinary general meeting, when the purpose of the board is to ensure continuous oversight of the company's management.

1.7. Simplified joint stock company (SAS)

The SAS is a new legal form that complements the other forms provided for by the Algerian Commercial Code [35]. It is exclusively established by companies that have been certified as "start-up."

> **Definition:** Executive Decree No. 20-254 of September 15, 2020, as amended and supplemented, defines the criteria for identifying a start-up:
>
> – **Duration of existence:** The company must not have been established for more than 8 years.
> – **Innovation:** The business model must be based on innovative products, services, or concepts.

35 Law No. 22-09 of May 5, 2022, amending and supplementing Ordinance No. 75-59 of September 26, 1975, concerning the Commercial Code.

- **Revenue:** The annual turnover must not exceed the threshold established by the national committee.
- **Share capital:** At least 50% of the share capital must be held by natural persons, approved investment funds, or other companies that are certified as "Start-up."
- **Growth potential:** The company must demonstrate a significant potential for growth.
- **Size of the company:** The company must not employ more than 250 persons.
- **Innovation:** The company must introduce innovation in its products, services, business model, or organizational model.

The "Start-up" label is granted to the company for a period of 4 years, renewable once, under the same conditions:

- **Innovative project:** Any natural person or group of natural persons may apply for the "Innovative Project" label for any project related to innovation. The "Innovative Project" label is granted to the individual or group of individuals for a period of 2 years, renewable twice, under the same conditions.
- **Incubator:** Any public, private, or public-private partnership structure that provides support to start-ups and holders of innovative projects, concerning accommodation, training, advice, and financing, is eligible for the "Incubator" label. The "Incubator" label is granted to the applicant for a period of 5 years, renewable, under the same conditions.

The SAS (Simplified Joint Stock Company), whose capital is divided into shares, is formed by partners who are liable for losses only up to the amount of their contributions.

The SAS may be established by one or more natural persons and/or legal entities. It is referred to as a "Single-Person SAS" when the company consists of only one person.

In addition to the other characteristics specified in this section, the "SAS" is characterized by the fact that it is established without the obligation of a minimum number of partners or capital, and the terms of its organization and operation are set out in its bylaws. The bylaws of the SAS specify:

- The decisions that must be made collectively by the shareholders;
- The procedures related to decisions delegated to the ordinary and extraordinary general meetings;
- The amount of the share capital.

The SAS may publicly raise funds or proceed with the admission of its shares to the stock exchange or issue inalienable shares resulting from industrial contributions.

In such cases, these industrial contributions do not contribute to the formation of the share capital but result in the allocation of shares entitling the holder to share in the profits, net assets, and losses. Their value and the benefits they generate are set out in the company's bylaws. The rules governing the liability of the president or directors of the SPA (Joint-Stock Company) are also applicable to the president and the CEO or deputy CEO of the SAS.

The responsibilities of the board of directors or its president are exercised by the president of the SAS or the executive designated by the bylaws for this purpose, in the capacity of CEO or deputy CEO.

In the case of a Single-Person SAS, the presidency is held by the sole shareholder, who exercises the powers vested in the president and makes the decisions assigned to the shareholders' meeting.

1.8. Partnership company

The company is governed by Articles 795 bis 1 and following of the Commercial Code. It is created between two or more natural persons. It has three main characteristics: it is a secret company, a non-public company, and it is based on the fundamental principle of personal liability for debts.

It is a secret company in the sense that it does not have a legal personality. The non-obligation for the partners to register the company with the commercial register is justified by the fact that the partners intend for third parties not to be aware of the existence of the company, as secrecy is key to the success of their joint venture.

It is also a non-public company because the participants cannot act as partners in front of third parties. The Commercial Code explicitly provides that the entire set of general provisions in the preliminary chapter relating to commercial companies does not apply to this type of company. This includes, for example, provisions related to the domicile, the registered office, the corporate purpose, or the formalities of establishment. Furthermore, Title I, which outlines the operating rules for various commercial companies, does not apply to this type of company either.

The third characteristic is that the partnership company is based on the principle of personal liability for debts. Each partner contracts with third parties in their own name and is solely responsible, even if they disclose the names of the other partners to third parties without their consent.

2. Groupement

It is governed by Articles 796 and following of the Commercial Code. It is a special structure that is not truly a commercial company and, by itself, does not allow for an establishment in Algeria. However, it is frequently used by foreign companies to operate in Algeria in collaboration with other resident legal entities.

- **Purpose of the groupement**

Two or more legal entities may create, in writing, a groupement for a determined period in order to implement all means aimed at facilitating or developing the economic activities of its members, improving or increasing the results of this activity. The groupement, therefore, constitutes a structure for collaboration between existing companies that retain their legal independence.

The purpose of the groupement is not to generate profits, but to facilitate and develop the economic activity of its members, or even to improve or increase the results of this activity.

- **Transparency of the groupement**

If the activity resulting from its creation generates a profit, it must be shared among its members. The groupement itself cannot generate profits. According to the 2022 Finance Law, the profits and losses generated through the groupement contract are allocated to the tax results of each member company, for the fiscal year in which they occurred, within the limits of the rights established in the groupement contract, or, failing that, equally.

Furthermore, from a fiscal point of view, the groupement is said to be transparent. This means that the members are taxed separately from the groupement on the portion of the revenue or profit generated by the groupement that belongs to them. The companies

that are members of a groupement, constituted in accordance with the provisions of the Commercial Code, are required to submit to the tax authorities of their headquarters:

– A copy of the groupement contract, within 30 days from the date of the groupement's establishment. In case of termination, the tax authorities must be informed under the same conditions;
– Copies of the work, supply, or service contracts, as well as any amendments to these contracts, concluded by the groupement, within 30 days from the date of their signature.

Failure to comply with these obligations results in the application of the penalty provided for in Article 1945 of the Code of Direct Taxes and Assessed Taxes.

• Legal personality of the groupement

The groupement acquires legal personality once it is registered with the commercial register.

• Freedom of contract

The groupement is fundamentally based on the principle of contractual freedom. The mandatory provisions of company law do not apply.

Therefore, it is essentially the constitutive contract that determines the organization of the groupement and the conditions under which decisions are made by the assembly of members.

The contract or, if necessary, the assembly also organizes the administration of the groupement, appoints the administrator(s), and determines their powers, responsibilities, and conditions for dismissal.

Furthermore, the contract sets out the modalities for controlling management and accounts, and can exclude the dissolution of the groupement due to the incapacity, personal bankruptcy, or prohibition from managing a legal entity that affects one of its members.

The constitutive contract generally, but not exclusively, contains the following details:

– The name of the groupement;
– The names, company names, legal form, address of the domicile or registered office, and commercial registration numbers of each member;
– The duration for which the groupement is established;
– The object of the groupement;
– The address of the groupement's registered office.

It is important to note that all modifications to the contract are established and published in the same way as the contract itself.

The members of the groupement are not required to make any contributions. In such case, the groupement shall have no share capital. The rights of its members may not be represented by transferable securities.

• Responsibility

The groupement functions like a partnership. Its members are jointly and severally liable for its debts. In other words, any creditor can, after failing to recover from the groupement, turn to any member of the groupement.

In dealings with third parties, an administrator binds the groupement with any action falling within its object. Clauses limiting their powers are not enforceable against third parties.

- **Practical use of the groupement**

In practice, the groupement is used by foreign companies that, in order to secure a project in Algeria, must ally with other foreign companies and local companies. The groupement is therefore often used for the execution of large Algerian projects, typically subject to public tendering rules.

It should be distinguished from a consortium, which is not a true legal entity. A consortium is used when two or more companies agree with a third party to sign and jointly execute a contract. It does not have legal personality and is not registered in the commercial register.

As already mentioned, a foreign company executing a contract in Algeria through the creation of a groupement cannot claim to have a presence in Algeria through that same groupement. It must also establish itself as a separate entity, either through an Algerian legal entity or a permanent establishment, to have its existence legally or at least fiscally recognized by Algerian authorities.

3. Other forms of establishment

3.1. Self-entrepreneur status

Law No. 22-23 of December 18, 2022, regarding the self-entrepreneur status (hereinafter referred to as the "Law") aims to define the rules and conditions applicable to the practice of self-employment as follows:

A self-entrepreneur is a natural person engaged in an individual profit-making activity listed in the approved list of eligible activities, with an annual turnover not exceeding a threshold set by the applicable legislation.

It is important to note that certain activities, such as liberal professions, regulated professions, and craft activities, are excluded from this status.

To be eligible, the individual must meet specific conditions, including reaching the legal working age, being of Algerian nationality and residing in Algeria, or being a foreign national residing in Algeria in accordance with the applicable legislation, and carrying out an activity included in the list of eligible activities for the self-entrepreneur status.

Executive Decree No. 23-197 of May 25, 2023, sets forth the list of activities eligible for self-entrepreneur status. This list, categorized into seven activity sectors, serves as a mandatory normative reference for registration in the national register:

- Consulting, expertise, and training.
- Digital services and related activities.
- Home services.
- Personal services.
- Leisure and recreational services.
- Business services.
- Cultural, communication, and audiovisual services

The Law specifies that any individual meeting the aforementioned conditions must submit an application for registration with the National Register of Auto-entrepreneurs. An auto-entrepreneur card, bearing a unique national registration number, is issued to the auto-entrepreneur in accordance with the model established by regulatory provisions. The auto-entrepreneur has the freedom to domicile their activity either at their place of residence or in shared workspaces.

To facilitate the implementation of this new status, Executive Decree No. 23-196 of May 25, 2023, established the National Agency for Auto-entrepreneurs (ANAE). Under the authority of the Minister responsible for start-ups, ANAE is tasked, among other duties, with issuing the auto-entrepreneur card, valid for a period of 5 years, and organizing the functioning of this status.

The registration request is processed within a maximum period of 3 working days, and the applicant is electronically notified of the acceptance or rejection of their registration.

The auto-entrepreneur enjoys several benefits, including simplified accounting, exemption from registration with the commercial register, a preferential tax regime, and the possibility of opening a commercial bank account.

The auto-entrepreneur must, in particular, obtain a tax identification number, register with the social security organization for non-salaried workers, and comply with the annual declaration and payment procedures for fiscal obligations. Furthermore, the auto-entrepreneur is required to comply with the current legislative and regulatory provisions.

In the event of exceeding the annual turnover for 3 consecutive years, the auto-entrepreneur must register with the commercial register to continue their activity.

3.2. Liaison office

The operation of liaison offices is governed by the order of November 9, 2015, which defines the conditions and procedures for the opening and operation of non-commercial liaison offices.

• Principle

According to Articles 4 and 9 of the Order of November 9, 2015, a liaison office is considered to carry out no profit-making activities and does not generate any local revenue. Its operating expenses, including staff remuneration and the related social and fiscal charges, as well as any other expenses, are borne by the parent company. These expenses must be covered in Algerian dinars derived exclusively from the equivalent value of convertible currencies previously imported.

• Approval of the liaison office

The approval of the liaison office is granted by the Ministry of Trade for a period of 2 years, renewable.

The granting of the approval is subject to the following conditions:

– The presentation by the liaison office manager of a guarantee bond amounting to 30,000 USD, deposited with a primary bank;
– The opening of a foreign account in Algerian convertible dinars (CEDAC) with the same bank, along with the deposit of an amount in foreign currency equivalent to at least 5,000 USD;
– The payment, to the tax collector of the relevant jurisdiction, of registration fees for the equivalent value in convertible currencies of 1,500,000 DA;
– A commitment from the legal representative of the foreign commercial company to comply with the laws and regulations in force in Algeria, particularly the prohibition on conducting direct or indirect economic activities within Algerian territory, as well as the submission of a list of required documents as specified by the aforementioned order.

For applications for the renewal of the liaison office approval, they must be submitted no later than 2 months before the expiration of the approval and must be accompanied by the following documents:

– The receipt proving the payment, to the tax collector of the relevant jurisdiction, of registration fees for the equivalent value in convertible foreign currencies of 1,500,000 DA;
– The notarized lease agreement or title proving the existence of the premises covering the validity period of the approval;
– The certificate confirming the tax status with the tax administration, issued by the tax collector of the relevant jurisdiction.

• Operation and obligations of the liaison office

The liaison office must maintain an accounting system in compliance with the applicable regulations, specifically for expenses related to the operation and costs of the liaison office.

As part of its activities in Algeria, the operational expenses of the liaison office, including employee remuneration, associated social and fiscal charges, and all other expenses incurred by the liaison office in its activities within Algeria, must be paid by checks drawn from the CEDAC account. To cover minor expenses, the liaison office may have a petty cash fund, which is solely replenished from the CEDAC account.

Additionally, the name of the foreign commercial company, followed by the term "liaison office," must be clearly displayed on the building housing the liaison office.

• Opportunity of using a liaison office

The interministerial instruction of July 30, 1986, concerning the financial obligations of liaison offices for foreign enterprises or business groups approved by the Ministry of Commerce, constituted, at the time of its issuance, a notable exception to Law No. 78-02 of February 11, 1978, as amended, which established the State's monopoly over Algeria's foreign trade.

In the past, a number of companies have resorted to a liaison office to develop their activities in Algeria. However, since the repeal of Law No. 78-02, there is now no longer any legal barrier preventing a foreign company from establishing itself in Algeria by choosing the legal form that best suits its specific needs.

It is important to note that currently, the use of a liaison office no longer holds the same appeal it once had when it was the only form of establishment for foreign companies in Algeria. Given the legal framework of the liaison office described above, it is clear that a foreign company cannot use a liaison office to intensify its presence in Algeria.

Indeed, the liaison office cannot conduct any commercial activity on a habitual and autonomous basis, and its operational model, except in exceptional cases, is ill-suited to the requirements of a foreign company's development strategy in Algeria.

According to the provisions of the aforementioned decree of November 9, 2015, the following entities cannot establish a liaison office in Algeria:

– Natural persons;
– Agencies, branches, commercial representations, or any other establishments of a company based abroad;
– Companies engaged, notably, in consulting, customs declaration, except for services whose presence in Algeria is deemed indispensable;
– Legal entities engaged.

However, foreign companies that sell their products to Algerian importers and wish to develop and promote their sales networks in Algeria may find it beneficial to open a liaison office. This allows them to have a presence in Algeria, promote their activities and products, while conducting direct sales from abroad.

The benefits are primarily legal, as direct sales enable the foreign company to avoid establishing a company under Algerian law. Furthermore, this reduces operational costs (salaries, storage, customs clearance, etc.) compared to the expenses incurred from setting up and operating a subsidiary.

3.3. Branch

A branch establishment is considered a foreign investment. However, due to the lack of distinct legal personality, which prevents forming partnerships, opening a branch by foreign companies has been difficult to envision since [36].

Any branch-type establishment in Algeria is required to register with the trade register [37]. This registration allows the branch to conduct commercial activities in Algeria and develop a clientele according to the same rules as any Algerian merchant or commercial company.

3.4. Permanent establishment

This concept encompasses the notion of an establishment that is strictly linked to the application of double taxation treaties signed by Algeria, and a more general notion of an establishment that defines the presence of foreign companies in Algeria during the execution of a contract.

It is essentially a simple fiscal entity, and the foreign company does not have a legal existence. However, it is recognized as an entity present in Algeria by the authorities and, as such, acquires rights (the right to a bank account, the right to hire personnel) and obligations (payment of taxes). The company exists through the contract it executes in Algeria. This contract must be registered with the tax authorities. Therefore, a company cannot claim to have an establishment in Algeria if no contract is being executed by it in Algeria.

A permanent establishment allows a company to operate temporarily in Algeria with minimal operational burden and to freely repatriate the contractually agreed transferable portion of the income generated from activities in Algeria. However, while a foreign company has the capacity to carry out its activities through a permanent establishment, it may encounter difficulties due to the absence of a trade register.

36 In practice, exceptions may, however, be granted for certain sectors of activity.
37 Article 19 of the commercial code.

CHAPTER 3

Conditions for exercising commercial activities

1. Commercial register

This is a document maintained by the National Center for the Commercial Register (CNRC). An excerpt from the commercial register constitutes an authentic act authorizing any natural or legal person to engage in commercial activity. It serves as proof to third parties until proven false.

In 2015, the principle of the homogeneity and/or compatibility of economic activities subject to registration in the commercial register was introduced [38]. The simultaneous registration of more than one sector of activity on the same commercial register excerpt is now prohibited. Exceptions may be granted, notably for commercial utility reasons and for the supply of isolated or poorly served towns or areas by the distribution network, where the combination of certain retail distribution and services sector activities may be permitted on the same commercial register excerpt.

Registration in the commercial register is required for any natural or legal person wishing to engage in commercial activities. Any person who habitually engages in commercial activities without being registered in the commercial register commits an offense punishable by law.

Any natural or legal person registered in the commercial register is considered a merchant. They are subject to all the consequences arising from this status. They must, notably, indicate at the top of their invoices, order forms, tariffs, and brochures, as well as on all business-related correspondence, the registration number they have received.

38 Executive Decree No. 15-249 setting out the content, structure, as well as the management and updating conditions of the list of economic activities subject to registration in the trade register.

Some activities are excluded from the scope of Law No. 04-08 of August 14, 2004, as amended and supplemented, concerning the conditions for exercising commercial activities, such as:

- Agricultural activities;
- Artisans;
- Civil societies;
- Cooperatives and non-profit associations;
- Liberal civil professions;
- Public establishments responsible for managing public services, except for EPICs.

Any commercial company subject to registration in the trade register is required to carry out the legal advertisements prescribed by the applicable legislation and regulations.

The legal advertisements for legal entities are intended to inform third parties of the content of the founding acts of the companies, transformations, modifications, as well as operations concerning share capital, pledges, lease management agreements, sales of business assets, and financial statements and notices.

The registration of commercial activities is carried out by reference to a classification of economic activities subject to registration in the trade register. This classification categorizes the following business sectors:

1xx xxx	Production of goods
2xx xxx	Artisan production business
3xx xxx	Wholesale distribution
4xx xxx	Importation for resale in the same condition
5xx xxx	Retail distribution (stationary and non-stationary)
6xx xxx	Services
7xx xxx	Exportation

In the case of multiple registrations, registration with the commercial register is made with reference to the core activity constituting a main business or establishment, as well as to secondary establishments. The core activity is that which results from the first registration with the commercial register. The secondary activity is the one that extends from the core activity and/or is carried out within the territorial jurisdiction of the Wilaya of the establishment and/or in other Wilayas.

Economic activities declared as secondary are registered in the commercial register, in summary form, referencing the main establishment.

In 2015, electronic registration was introduced as a method for registration with the commercial register. According to the provisions of Executive Decree No. 15-111 of May 3, 2015 (Official Journal No. 24), which sets out the procedures for registration, modification, and removal from the commercial register, it is now possible to register with the commercial register and transmit related documents electronically, using electronic signature and certification methods. The commercial register excerpt may be issued in electronic format.

In 2018, all businesses, both natural persons and legal entities, must have an electronic commercial register excerpt with the RCE code, in accordance with Executive Decree No. 18-112 of April 5, 2018, as amended and supplemented by Executive Decree No. 22-50 of January 23, 2022. The deadline for bringing the commercial register excerpts into compliance was set for June 30, 2022, in accordance with Executive Decree No. 20-154 of June 8, 2020, which amended Executive Decree No. 18-112 of April 5, 2018.

Starting from January 2, 2021, administrations and public establishments can only accept commercial register extracts issued in electronic format for their commercial transactions [39].

Since the publication of the Decree of November 2, 2017, which sets the validity period of the commercial register extract issued for the exercise of certain activities, amended by the Decree of May 19, 2019, the validity period for the commercial register, including the activity code for importation for resale in the state, is now fixed at 2 years, renewable, and indicated on the commercial register extract in a designated area for this purpose.

The provisions of this decree do not apply to importation operations carried out for one's own account by any economic operator within the framework of its production, transformation, and/or realization activities, limited to its own needs.

Upon the expiration of this validity period, the commercial register becomes void, and the concerned commercial company must:

- Request its removal from the commercial register if it solely engages in the activity of importation for resale in its current state;
- Proceed to modify its commercial register by removing the concerned activity if it is engaged in multiple activities.

If not, the removal from the commercial register will be requested by the authorized control services.

In the event that the commercial company wishes to renew its commercial register for the purpose of conducting activities related to importation for resale in its current state, it must do so within 15 days before the expiration of the validity period. The competent authorities have decided that, by no later than December 31, 2021, modifications to the commercial registers of companies operating in the importation sector of raw materials, products, and goods intended for resale in their current state must be carried out. After this deadline, non-compliant extracts from the commercial register will be deemed null and void.

2. Regulated activities

Regulated activities and professions are subject to specific rules defined by the laws and regulations governing them.

According to Executive Decree No. 15-234 of August 29, 2015, as amended and supplemented, setting the conditions and modalities for the exercise of regulated activities and professions subject to registration in the commercial register (amended and supplemented), any activity or profession that requires, by its nature or purpose, specific conditions for authorization to be exercised is considered a regulated activity or profession. These activities and professions are deemed regulated due to their specificities and because their practice may directly affect concerns related to public order, the safety of goods and people, the preservation of natural resources and public property forming the national heritage, public health, or the environment.

Executive Decree No. 20-355 of November 30, 2020, amending and supplementing Executive Decree No. 15-234, exempts the applicant for the exercise of a regulated activity or profession from submitting a copy of the required authorization or approval when regis-

39 Article 2 of Executive Decree No. 20-154 of 8 June 2020 amending Executive Decree No. 18-112 of 5 April 2018 establishing the format of the electronic version of the commercial register extract.

tering in the commercial register. However, the actual exercise of a regulated activity or profession is contingent on obtaining the authorization or approval issued by the relevant administration or institution.

However, when the activities or professions are governed by legislative provisions explicitly conditioning the obtaining of the approval or authorization from the relevant administration or institution prior to registration in the commercial register, the applicant must attach a copy of the approval or authorization to the registration file.

3. E-commerce

Law No. 18-05 of May 10, 2018, related to e-commerce, defines e-commerce as the activity by which an e-supplier offers or provides, to an e-consumer, goods and services at a distance through electronic communications. An electronic contract is, therefore, a contract concluded remotely, without the simultaneous physical presence of the parties, using only electronic communication techniques. E-commerce activities remain subject to registration in the commercial register or, as applicable, in the register of crafts and trades, as well as the publication of a website or web page hosted in Algeria with the extension [.com.dz]. The exercise of e-commerce activities is contingent on registering the domain name with the services of the National Center for the Commercial Register (CNRC). An activity code has been established by the CNRC for the exercise of this activity.

Under Article 7 of Law No. 18-05, cross-border electronic sales and purchases are exempt from foreign trade and exchange control formalities when the transaction amount does not exceed the equivalent in dinars of the limit set by the applicable legislation and regulations.

Regarding the requirements for electronic commercial transactions, Law No. 18-05 stipulates that any transaction must be formalized by an electronic contract validated by the e-consumer.

Furthermore, ordering a product or service must follow three main steps:

– Acceptance by the e-consumer of the contractual terms;
– Verification of the transaction details by the e-consumer, including (quality, price, etc.), with the possibility to modify and/or cancel the order;
– Confirmation of the order by concluding the contract.

After the conclusion of the electronic contract, the e-supplier is fully responsible for the proper fulfillment of the obligations resulting from the contract concluded with the e-consumer.

For the payment of electronic transactions, the law stipulates that payment can be made either remotely or upon delivery of the product, by means of payment authorized by the applicable legislation.

When the payment is electronic, it is done through dedicated payment platforms set up and operated exclusively by banks approved by the Bank of Algeria and Algeria Post, connected to any type of electronic payment terminal via the public telecommunications operator's network. However, for cross-border commercial transactions, payment is made exclusively remotely through electronic communication.

Furthermore, Executive Decree No. 19-89 of March 5, 2019, was published to set the modalities for the storage and transmission of electronic commercial transaction records to the CNRC.

According to Article 2 of this Decree, the commercial transaction register is an electronic file in which the e-supplier records the elements of the commercial transaction, including:

– The contract;
– The invoice or equivalent document;
– Any acknowledgment of receipt, upon delivery, return, or exchange, as applicable.

These elements must be stored by the e-supplier in such a way that they are accessible, readable, and intelligible for consultation by authorized agents. These elements must be preserved in their original form or in a form that cannot be modified or altered in content.

Moreover, the e-supplier must transmit to the center, before the 20th of the month for transactions conducted in the previous month, the information extracted from the commercial transaction register, including:

– The object of the transaction;
– The exact amount of the transaction, including tax;
– The date of the transaction;
– The payment method;
– The invoice number or equivalent document.

The center establishes a dedicated electronic platform to store the information transmitted by the e-suppliers. An access code to the platform is issued to the e-supplier by the center after registering the domain name. The center is interconnected with the Directorate General of Taxes, which accesses the above-mentioned information electronically as soon as it is received.

4. Status of foreign traders

4.1. Professional card

(Formerly known as the merchant card).

In addition to the provisions regarding the registration requirements for any individual or legal entity in the commercial register, Executive Decree No. 06-454, dated December 11, 2006, defines the conditions and procedures for issuing a professional card to foreigners engaged in commercial, industrial, artisanal, or liberal professions, as well as to members of the boards of directors or supervisory boards of commercial companies and the management and administrative bodies of these companies, who are statutorily responsible for the administration and management.

The model and content of the professional card, as well as the required documents for the application, are defined by regulatory means.

• Conditions for obtaining the professional card

The issuance of a professional card for any foreign national must be justified by one of the following cases:

– Registration in the commercial register for conducting a commercial activity (it should be noted that registration in the commercial register grants the person the status of a trader, which applies to managing partners or members of the boards of directors and supervisory boards of commercial companies);
– Registration in the crafts and trades register for conducting an artisanal activity;
– Registration in the professional order or organization governing the profession for conducting a liberal activity.

- **Issuance/renewal of the professional card**

The request for the issuance or renewal of the professional card must be formalized on a form to be collected and submitted by the applicant to the directorate responsible for regulation and general affairs at the Wilaya of their place of residence or the location of the commercial premises or the registered office of the company for the company's directors.

The professional card is issued by the Wali (governor) of the Wilaya where the beneficiary is based or where the commercial premises or registered office of the company is located for company directors.

In practice, the minimum time frame for obtaining the professional card is set at 3 months from the date of submission of the application.

The foreigner concerned must apply for the professional card no later than 60 days after their registration in the commercial register, the crafts and trades register, or the professional order of the governing organization of the profession.

The request for renewal must be made no later than 60 days before the card's expiration date.

The professional card will be revoked from its holder if, for example, the holder has been declared bankrupt or in the event of the cessation of the activities for which the card was issued.

- **Validity period of the professional card**

The validity period of the professional card is set to 2 years, renewable. The request for renewal must be made no later than 60 days before the card's expiration date.

The holder of the professional card is required to return it to the administrative authority that issued it when they permanently leave the national territory.

4.2. Foreign resident card

In addition to the provisions summarized below, Executive Decree No. 06-454 of December 11, 2006, specifies that holders of foreign nationality are required to apply for a foreign resident card within 90 days from the issuance of their professional card. This provision does not apply to foreign members of boards of directors or supervisory boards and management bodies of commercial companies who do not reside in Algeria.

The personal presence of the interested party is mandatory to complete the necessary formalities and forms for obtaining the foreign resident card.

Article 17 of the same decree specifies that foreigners who are legally staying in the national territory and are subject to the professional card must comply with the provisions of this law within one year after its publication in the Official Journal of the Algerian Democratic and Popular Republic.

CHAPTER 4

Regulation of foreign investment

1. Legal framework

1.1. Definition of investment

The regime applicable to investments made in economic activities involving the production of goods and services is primarily governed by the provisions of Law No. 22-18 on Investment, dated July 24, 2022 (referred to as the "Law" in this Chapter), as well as its implementing regulations.

The Law expressly repeals all provisions contrary to its provisions, notably Law No. 16-09 of August 3, 2016, on investment promotion.

It is also important to note that the Law guarantees the preservation of rights and benefits legally acquired by investors, which remain governed by the laws under which they were registered and/or declared, until the expiration of their respective durations.

The Law applies to investments made through:

- The acquisition of tangible or intangible assets directly involved in the production of goods and services, within the framework of new business creation, production capacity expansion, and/or the rehabilitation of production tools;
- Participation in a company's capital in the form of cash or in-kind contributions;
- External in-kind contributions in the form of new goods (exempt from foreign trade and bank domiciliation formalities);
- The relocation of activities from abroad, defined as the process by which a foreign company transfers all or part of its activities from abroad to Algeria. In this context, external in-kind contributions that are exclusively part of business relocation operations and new goods constituting an external in-kind contribution are exempt from foreign trade and bank domiciliation formalitie.

1.2. Freedom of investment and Algerian partnership

1.2.1. Freedom to invest

Article 3 of the Law establishes the following principles:

- Freedom to invest: Any natural or legal person, whether national or foreign, resident or non-resident, is free to decide on their investment, provided they comply with the applicable laws and regulations.
- Transparency and equality in the treatment of investments.

1.2.2. Partnership

The 49/51 rule was first introduced in 2009 through Article 58 of the Complementary Finance Law. This rule required foreign investors to partner with a local entity holding at least 51% of the capital in any company established in Algeria.

In 2016, the Finance Law specified that national resident shareholders must always retain 51% of the capital in companies operating in strategic sectors.

The 2020 reform marked a turning point by limiting the 49/51 rule to only strategic sectors, allowing foreign investors to own 100% of the capital in most industries. The strategic sectors still subject to the 49/51 rule include:

- Mining operations of national mineral resources, except for quarries of non-mineral products.
- Upstream energy sector and activities governed by the Hydrocarbons Law, including the operation of electricity, gas, or liquid hydrocarbon distribution and transport networks.
- Military industries initiated by or related to the Ministry of National Defense.
- Railways, ports, and airports.
- Pharmaceutical industries, except for investments in innovative essential products with high added value, requiring complex and protected technology, intended for local markets and export.

In 2021, the Finance Law expanded the application of the 49/51 rule to the importation of raw materials, in addition to finished products for resale in their original state.

Executive Decree No. 21-145 further clarified the list of strategic activities, confirming that the mandatory 51% national shareholder requirement still applies to military industries related to state-owned industrial and commercial establishments under the Ministry of National Defense.

In 2022, legislative amendments reinforced the 2020 reforms by providing further clarification on strategic activities without altering the fundamental principles.

The 2025 Finance Law maintained the principle of investment freedom while confirming that the 49/51 rule remains mandatory for certain strategic sectors defined by decree, including:

- Military industries.
- Railways, ports, and airports.
- Pharmaceutical industries, with the same exceptions as in 2020.
- Fertilizer production.

Additionally, the importation of finished products for resale in their original state remains subject to this rule.

Following the revision of Executive Decree No. 04-331 of October 18, 2004, as amended and supplemented, activities related to the manufacturing, importation, and distribution

of tobacco products are now subject to a mandatory partnership, with a 51% national majority shareholding and a 49% cap for foreign partners, except for the exclusive manufacturing of snuff and chewing tobacco.

Furthermore, capital allocation rules apply to partnership operations between state-owned economic enterprises (EPEs) and national resident shareholders. Article 62 of the 2016 Finance Law stipulates that when EPEs open their capital to national resident shareholders, they must retain at least 34% of shares or equity.

1.2.3. Prior authorization from the competent authorities

Previously, the State had a right of preemption over all transfers of shares or equity interests carried out by or in favor of foreign entities.

This right of preemption was abolished by the Complementary Finance Law for 2020 and replaced by the obligation to obtain prior authorization from the competent authorities, as stipulated in Article 138 of the Finance Law for 2021. This provision applies to any transfer of shares or equity interests held by foreign partners in the share capital of an Algerian law company operating in a strategic sector, when such transfer is made in favor of a foreign natural or legal person. The implementation modalities of this provision will be defined by regulatory means.

As a transitional measure, and until December 31, 2026, transfers of shares or equity interests held in the share capital of an Algerian law company that were carried out before the promulgation of this law may be subject to regularization after review by an interministerial committee.

It should be noted that these provisions do not apply to transfers of shares or equity interests in companies operating in strategic sectors, in structuring investments, or in companies in which the State holds shares or equity interests.

Furthermore, the obligation to inform the State Holdings Council regarding the indirect transfer of Algerian law companies that have benefited from advantages or facilities during their establishment has also been repealed.

1.3. Guarantees – Protections – Agreements concluded by Algeria

The Investment Law establishes the principle of equal treatment for investments, as well as protections and guarantees, in accordance with the provisions of international law.

Algeria has entered into 46 bilateral investment protection agreements, in addition to multilateral agreements covering the same subject matter.

Country	Date of signature	Ratification date	Validity period	Ref JO No.
Arab countries	07/10/1995	07/10/1995	Remains valid, unless terminated by either party	59-1995
Arab Maghreb Union	23/07/1990	22/12/1990	Remains valid, unless terminated by either party.	06-1991
Argentina	04/10/2000	13/11/2001	10 years, remains in effect upon expiration of the term unless terminated by either party.	69-2001
Austria	17/06/2003	10/10/2004	10 years, automatically extended for similar periods by tacit renewal unless terminated by either party.	65-2004
Bahrain	11/06/2000	08/02/2003	10 years, renewable unless terminated by either party.	10-2003
Belgian-Luxembourg European Union	24/04/1991	05/10/1991	10 years, automatically renewed for a period of 10 years each time.	46-1991
Bulgaria	25/10/1998	07/04/2002	15 years, renewable by tacit agreement for successive periods of 5 years.	25-2002
China	20/10/1996	25/11/2002	10 years, remains in effect upon expiration of the term unless terminated by either party.	77-2002
Czech Republic	22/09/2000	07/04/2002	10 years, remains in effect after this term, unless terminated by either party.	25-2002
Denmark	25/01/1999	30/12/2003	10 years, remains in effect unless terminated by either party.	02-2004
Egypt	29/03/1997	11/10/1998	10 years, automatically renewable for a similar duration.	76-1998
Ethiopia	27/05/2002	17/03/2003	10 years, renewable for a similar period.	19-2003
Finland	13/01/2005	11/12/2006	20 years	06-469
France	13/02/1993	02/01/1994	10 years, remains in effect after the term unless terminated by either party	01-1994
Germany	11/03/1996	07/10/2000	Unlimited, unless terminated by either contracting party	58-2000
Greece	20/02/2000	23/07/2001	10 years, renewable for a similar period.	41-2001
Indonesia	21/03/2000	22/06/2002	10 years, to remain in effect for another 10-year period unless terminated by either party.	45-2002
Iran	19/10/2003	26/02/2005	10 years	15-2005
Italy	18/05/1991	05/10/1991	10 years, renewable by tacit renewal for the same duration unless terminated by either party.	46-1991
Jordan	01/08/1996	05/04/1997	10 years, remains in force after this period unless terminated by either party.	20-1997
Kingdom of Spain	23/12/1994	25/03/1995	10 years, extended by tacit renewal for consecutive periods of 2 years.	23-1995
Kingdom of Sweden	15/02/2003	29/12/2004	20 years, remains in force unless terminated by either party.	84-2004
Kuwait	30/09/2001	23/10/2003	20 years	66-2003

Country	Date of signature	Ratification date	Validity period	Ref JO No.
Libya	06/08/2001	05/05/2003	10 years, renewable for an indefinite duration unless terminated by either party.	33-2003
Malaysia	27/01/2000	23/07/2001	10 years, remains valid for an indefinite period unless terminated by either party.	42-2001
Mali	11/07/1996	27/12/1998	10 years, automatically renewable	97-1998
Mauritania	06/01/2008	05/11/2008	10 years, automatically renewable for a similar period.	65-2008
Mozambique	12/12/1998	23/07/2001	10 years, remains in effect after this term unless terminated by either party.	40-2001
Niger	16/03/1998	22/08/2000	10 years, renewable by tacit renewal unless terminated by either party.	52-2000
Nigeria	14/01/2002	03/03/2003	10 years, remains in effect until terminated by either party.	16-2003
Portugal	15/09/2004	28/05/2005	10 years, renewable by tacit renewal for successive periods of 10 years.	37-2005
Qatar	24/10/1996	23/06/1997	10 years, will remain in effect after this period unless terminated by either party.	43-1997
Romania	28/06/1994	22/10/1994	10 years, tacitly renewed for a new period of 10 years each time.	69-1994
Russia	10/03/2006	03/04/2006	10 years, renewable by tacit agreement for another period of 10 years.	21-2006
Serbia	13/02/2012	30/09/2013	10 years, renewable by tacit agreement for successive periods of 5 years, unless terminated by either party.	13-334
South Africa	24/09/2000	23/07/2001	10 years, remains in force upon the expiration of the term unless terminated by either party.	41-2001
South Korea	12/10/1999	23/07/2001	20 years	40-2001
Sudan	24/10/2001	17/03/2003	10 years, renewable by tacit reconduction for similar periods.	20-2003
Sultanate of Oman	09/04/2000	22/06/2002	10 years, remains in force for a similar duration or durations.	44-2002
Swiss Federal Council	30/11/2004	23/06/2005	15 years	45-2005
Syria	14/09/1997	27/12/1998	10 years, renewable by tacit renewal for similar periods.	97-1998
Tajikistan	11/03/2008	02/11/2017	10 years, renewable by tacit renewal.	17-311
Tunisia	16/02/2006	14/11/2006	10 years, renewable by tacit renewal for similar periods.	73-2006
United Arab Emirates	24/04/2001	22/06/2002	20 years	45-2002
United States of America	22/06/1990	17/10/1990	Remains in force unless terminated by either party	45-1990
Yemen	25/11/1999	23/07/2001	10 years, continues to be valid for an identical period upon expiration of this duration.	42-2001

1.3.1. Guarantees

Stability of applicable law: Under Article 13 of the Law, the effects of any revisions or repeals of this Law, which may occur in the future, will not apply to investments made under this Law unless the investor expressly requests it.

In this context, the Law provides in its transitional and final provisions that the rights and benefits acquired by the investor under previous legislation will be maintained.

Investments benefiting from advantages under laws related to the promotion and development of investment prior to this Law, as well as any subsequent regulations, will continue to be governed by the laws under which they were registered or declared, until the expiration of the duration of those benefits.

The coexistence of advantages of the same nature established by the current legislation, with those provided by this Law, will not result in the cumulative application of the considered advantages; the investment will benefit from the most advantageous incentive.

Administrative requisitions: Under Article 10 of the Law, investments made may only be subject to administrative requisitions in cases specified by law. Requisition will lead to fair and equitable compensation in accordance with the applicable legislation.

Right of Appeal: The investor now has the right to appeal before the Commission, in addition to judicial recourse. A National High Commission for Appeals related to Investment [40] has been established by the Law, under the Presidency of the Republic, to rule on appeals brought by investors.

In this context, the general rule regarding disputes between foreign investors and the Algerian State is the competence of the territorially competent Algerian courts, unless a specific provision provides for arbitration (Art. 12). Another form of protection is the submission of any dispute between the investor and the Algerian State to arbitration. Furthermore, the act of investing is protected, as the new Law now provides for a sanction against anyone who, in bad faith, obstructs the act of investing in any way (Art. 37).

Obligations of the Investor: The Law finally recalls the obligations to which investors are bound, namely:

- Ensure compliance with the applicable legislation and standards, particularly those related to the protection of the environment and public health, competition, labor, and the transparency of accounting, tax, and financial information;
- Provide all information requested by the administration, necessary for monitoring and evaluating the implementation of the provisions of the Law.

Land, belonging to the private domain of the State, may be granted to investment projects by the agencies responsible for land management. To do so, investors will be able to consult information regarding available land provided by these agencies, notably through the investor's digital platform.

It is important to note the promulgation of Law No. 23-17 of November 15, 2023, along with its implementing regulations, which set the conditions and procedures for granting economic land from the State's private domain for investment projects. This text establishes the procedures for granting land from the State's private domain for investment purposes [41].

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40 Presidential Decree No. 22-296 of September 4, 2022, establishing the composition and functioning of the National High Commission for Investment-Related Appeals.

41 See Chapter 22: 6. Access to the State's Private Domain, Page 310. ↗

1.4. Capital transfer

1.4.1. Principle

According to Article 8 of the Law, "Investments made from capital contributions in the form of cash, imported through the banking channel and denominated in a freely convertible currency, regularly quoted by the Bank of Algeria, and transferred to it, whose amount is equal to or greater than minimum thresholds determined based on the total cost of the project as specified by regulatory means, benefit from the guarantee of transfer of the invested capital and the income derived therefrom."

This guarantee also applies to the net real products from the sale or liquidation of foreign investments, even if the amount exceeds the invested capital.

Reinvestments in capital from profits and dividends, declared transferable in accordance with the applicable laws and regulations, are accepted as foreign contributions.

The transfer guarantee and the minimum threshold apply to contributions from abroad, made in the forms prescribed by the prevailing legislation, provided they are of external origin and subject to valuation, in accordance with the rules and procedures governing the formation of companies.

The Bank of Algeria's regulation No. 05-03 of June 6, 2005, regarding foreign investments defines the modalities for the transfer of dividends, profits, and net real products from the sale or liquidation of foreign investments made under the Investment Law.

While under regulation No. 2000-03, prior authorization for transfer had to be granted by the Bank of Algeria, regulation No. 05-03 delegated this prerogative to banks and accredited institutions, which, since its adoption, are obligated to "execute transfers promptly for dividends, profits, proceeds from the sale of foreign investments, as well as attendance fees and bonuses for foreign directors."

Regulation No. 05-03 stipulates that profits and dividends produced by mixed investments (national and foreign) in eligible activities are transferable for an amount corresponding to the foreign contribution (properly verified) to the share capital. Regarding the sale and liquidation of investments, the transfer is made for an amount corresponding to the sale price or the net liquidation surplus due to the foreign investor.

As for controls, the Bank of Algeria reserves the right to conduct a posteriori checks on the transfers made by primary banks.

1.4.2. Transfer procedure

Instruction No. 01-09 of February 15, 2009, regarding the file to be submitted in support of a transfer request for income and proceeds from the sale of foreign investments, defines the content of the transfer file for profits, dividends, bonuses, attendance fees, and net real products from the sale or liquidation of foreign investments. For each type of transfer, the instruction lists the supporting documents required.

Moreover, regarding the transfer of proceeds from the sale or partial or total liquidation of non-resident shares, the instruction provides that it must be executed based on the actual net value, after taxes, of the assets sold. The instruction prohibits the transfer of advances and dividends or profit prepayments for any shareholder, and confirms that resale activities in their original state are not eligible for transfer, except in cases of significant investment effort.

Decree No. 22-300 of September 8, 2022, with reference to Article 8 of the Law, sets the minimum threshold at 25% of the investment amount for the benefit of the transfer

guarantee [42], calculated based on the share of foreign financing incurred by investors in the total cost of the investment. This threshold was previously calculated in increments of 10% to 30% depending on the investment amount.

The share of financing for the total investment cost, borne by foreign shareholders, was proportional to the stake held by them in the company's share capital.

Failure to meet the minimum threshold as set above does not prevent the benefits of the investment. However, it deprives the investment of the transfer guarantee.

1.4.3. Financing of investments

Previously, only local financing was allowed. Indeed, the financing of investments could only be done through domestic loans, with the exception of capital. Following the promulgation of the Finance Law for 2020, through its Article 108, financing for strategic and structural projects for the national economy, from international development financial institutions, is now authorized after the approval of the relevant authorities. The minister in charge of finance presents a report to the Finance and Budget Committee of the National People's Assembly on the strategic and structural projects for the national economy, the financing of which is authorized from international development financial institutions. The implementation procedures will be set by regulation.

Additionally, an exception is provided by Executive Decree No. 13-320 of September 26, 2013, which specifies the procedures for accessing necessary financing for foreign direct investments or partnerships. This decree authorizes the use of external financing through contributions from the partners' current accounts under certain conditions.

1.5. Benefits that may be granted to investors

In order to benefit from the advantages provided by the provisions of this Law, investments must first be registered with the competent one-stop shop of the Algerian Investment Promotion Agency (AAPI) or through the investor's digital platform, prior to their execution. The registration of the investment is confirmed by the immediate issuance of a certificate accompanied by a list of goods and services eligible for benefits, allowing the investor to present this certificate to the relevant administrations and organizations.

The registration of large investment projects, as well as foreign investments, is carried out at the one-stop shop for large projects and foreign investments. Large projects are those whose amount is equal to or greater than 2 billion DA.

Foreign investments are those in which the capital is wholly or partially owned by foreign individuals or legal entities, benefiting from the guarantee of transfer of the invested capital and the income derived from it.

The registration of investments involved in the relocation of activities from abroad is carried out based on a file, including in particular, a certificate of renovation of equipment assets issued by an accredited inspection and control organization, in accordance with the applicable regulations.

The list of goods and services not eligible for benefits, as provided by the provisions of the Law, is defined by Executive Decree No. 22-300 mentioned above, which establishes the lists of activities, goods, and services not eligible for benefits, as well as the minimum funding thresholds for the benefit of the transfer guarantee.

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42 Executive Decree No. 22-300 of September 8, 2022, establishing the lists of activities, goods, and services that are not eligible for benefits, as well as the minimum funding thresholds for the benefit of the transfer guarantee.

Definition of creation investment: Any investment made with the aim of forming, from scratch, technical capital through the acquisition of assets, with the goal of creating a production activity for goods and/or services.

Definition of expansion investment: Any investment made with the goal of increasing the production capacity of goods or services, through the acquisition of new production means that are added to the existing ones. The acquisition of complementary and/or related equipment does not qualify the investment as an expansion. The same applies to the acquisition of identical replacement equipment for the existing ones.

Definition of rehabilitation investment: Any investment made consisting of the acquisition of goods and/or services intended to bring existing equipment and materials into conformity to address technological obsolescence, wear, or aging that affects them in order to increase productivity or resume an activity that has been halted for at least 3 years.

- **Exclusion from the benefits provided by Law No. 22-18**

The following are not eligible for the incentive schemes provided for in Articles 26 and 28 of Law No. 22-18 regarding the regime of sectors and the regime of zones:

– Activities that are not eligible for the benefits of the zone regime, listed in Annex I of the referenced Decree;
– In addition to the activities listed in Annex I of the Decree, activities that are not eligible for the benefits of the sector regime, listed in Annex II of the said Decree;
– Activities carried out under a tax regime other than the actual regime;
– Activities not required to be registered in the commercial register, unless these activities are carried out in a form that mandates their registration in the commercial register;
– Activities that, under specific legislation, fall outside the scope of Law No. 22-18;
– Activities that cannot benefit from tax advantages due to a legislative or regulatory measure;
– Activities that have their own advantage regime;
– All goods belonging to the classes of the financial accounting system, other than those belonging to the fixed asset accounts, except where provided for by the referenced Decree;
– Goods belonging to the fixed asset accounts, listed in Annex III of the said Decree;
– Used equipment, including production chains and equipment.

However, renovated and imported equipment, constituting foreign contributions in kind, entering into the framework of the relocation of activities from abroad, in accordance with the legislation and regulations in force, is eligible unless it is listed in the exclusions outlined in Article 5 of Executive Decree No. 22-300.

Under the provisions of the referenced Decree, projects falling under the regime of strategic investments referred to in Article 30 of Law No. 22-18 are not subject to the exclusions provided for in the Decree.

- **Importation for consumption**

New goods and equipment

Article 65 of Law No. 22-24 of December 25, 2022, which amends and reforms Article 57 of Law No. 20-07 of June 4, 2020 (complementary finance law for 2020), authorizes the customs clearance for consumption of new goods and equipment, including:

– Vehicles intended for transporting people and goods;
– Tractors;
– Vehicles for specific uses.

Renovated equipment and production lines

According to paragraph 2 of the aforementioned article, customs clearance for consumption is also authorized for:

- Production lines and equipment that have been used for less than five (5) years
- Agricultural equipment and materials that have been used for less than seven (7) years.

Executive Decree No. 24-241 of July 22, 2024, which sets out the customs clearance procedures for the consumption of production lines and agricultural equipment, repeals Executive Decree No. 20-312 of November 15, 2020. This decree is enacted in accordance with Article 57 of Law No. 20-07 of June 4, 2020.

Definitions (as per the referenced Decree):

- **Production line:** A set of equipment used for extracting, manufacturing, and/or packaging products
- **Production equipment:** Any item that, either alone or integrated into a production line, produces or enables the production of goods and/or services
- **Agricultural equipment and materials:** Tools with mechanical devices, as well as agricultural tractors, used in the agricultural sector to carry out farming tasks and livestock activities.

Eligibility for customs clearance:

Operators wishing to import the specified equipment must obtain a prior eligibility certificate issued by the regional director responsible for industry in the area where the production or agricultural activity is based. The issuance of this certificate is subject to the following cumulative conditions:

- Registration in the commercial register or possession of a professional agricultural card, depending on the nature of the activity;
- Proof of an activity directly linked to the production lines or equipment, or an agricultural activity compatible with the requested agricultural equipment or materials;
- Ownership of the necessary infrastructure for the effective operation of the production lines, equipment, or agricultural materials being requested.

The operator has one (1) year (extendable) to present the eligibility certificate for customs clearance of production lines or equipment, or agricultural equipment and materials.

The equipment in question is subject to the following conditions:

- The equipment must not pose risks to safety, health, or the environment;
- The equipment must be in good working order, certified by a compliance evaluation body accredited by the Algerian Accreditation Organization ("ALGERAC") or an accredited foreign body recognized by ALGERAC;
- The production line, equipment, or agricultural material must be used exclusively for the operator's professional activity and must be put into service within six (6) months (extendable) from the date of customs clearance;
- The operation must be attested by a report drawn up by a bailiff or a specialized, sworn, and certified expert.

1.5.1. Advantages for eligible investments

Investments can benefit, upon the investor's request, from one of the following incentive regimes:

- The incentive regime for priority sectors (sector regime);
- The incentive regime for zones to which the State grants particular interest (zone regime);
- The incentive regime for investments of a structural nature (structural investments regime).

In addition to the tax, parafiscal, and customs incentives provided by common law, eligible investments benefit from advantages related to the execution of the investment.

1.5.1.1. Incentive regime for priority sectors (sector regime)

Eligible investments are those made in the following activity areas:

- Mines and quarries;
- Agriculture, aquaculture, and fishing;
- Industry, agro-industry, pharmaceutical industry, and petrochemicals;
- Services and tourism;
- New and renewable energies;
- Knowledge economy and information and communication technologies.

The list of activities that are not eligible for benefits under the sector regime is provided in Annex II of Decree No. 22-300 (List of activities not eligible for benefits under the sector regime).

- **Advantages granted for the investment realization phase**

  These advantages are:

  - Exemption from customs duties for goods imported and directly involved in the realization of the investment;
  - Exemption from VAT for goods and services imported or acquired locally, directly involved in the realization of the investment;
  - Exemption from the transfer tax and property advertising tax for all real estate acquisitions made as part of the investment;
  - Exemption from registration fees for the constitutive acts of companies and capital increases;
  - Exemption from registration fees, property advertising tax, and domain remuneration related to the concession of both built and unbuilt real estate for investment projects;
  - Exemption from property tax on real estate properties related to the investment, for a period of 10 years, starting from the date of acquisition.

- **Advantage granted for the investment operation phase**

  This advantage concerns exemption from the corporate profit tax (IBS).

1.5.1.2. Incentive regime for zones to which the state grants special interest (zone regime)

Investments eligible for this regime are those made in:

- Localities in the High Plateaus, the South, and the Grand South;
- Localities whose development requires specific support from the State (list established by regulatory means);
- Localities with potential natural resources to be valued.

The list of localities covered by this regime is specified in Executive Decree No. 22-301 of September 8, 2022, which defines the list of localities in these zones.

- **Advantages granted during the investment implementation phase**

  These advantages include:

  – Exemption from customs duties for imported goods directly related to the implementation of the investment.
  – Exemption from VAT for goods and services either imported or locally acquired, directly related to the implementation of the investment.
  – Exemption from the property transfer tax and land registration tax for all real estate acquisitions made within the framework of the investment.
  – Exemption from registration fees for corporate deeds and capital increases.
  – Exemption from registration fees, land registration tax, as well as state fees related to land concessions (both built and unbuilt properties) for the realization of investment projects.
  – Exemption from property tax on real estate used for the investment for a period of 10 years, starting from the acquisition date.

- **Advantage granted during the exploitation phase of the investment**

  This advantage involves exemption from the Corporate Profit Tax (IBS).

1.5.1.3. Incentive regime for structuring investments

Eligible under this regime are investments with high potential for wealth and job creation, which enhance the attractiveness of the territory and generate a positive spillover effect on economic activity, contributing to sustainable development.

Structuring investments, as defined by Law No. 22-18, are those with significant potential to create wealth and employment, likely to increase the attractiveness of the region and generate momentum for economic, social, and territorial sustainable development. These investments contribute primarily to:

– Import substitution;
– Export diversification;
– Integration into global and regional value chains;
– Acquisition of technology and know-how.

To qualify for the structuring investment regime, investments must meet the following criteria:

– Direct employment: 500 jobs or more;
– Investment amount: 10 billion Algerian Dinars (DA) or more.

Structuring investments may benefit from State support through the partial or full coverage of necessary development and infrastructure works required for their realization.

Infrastructure works refer to the provision of various utilities and road access up to the boundary of the investment project site.

- **Incentives granted during the investment implementation phase**

  Executive Decree No. 22-302 of September 8, 2022, which defines the qualification criteria for structuring investments, the procedures for accessing operational benefits, and the evaluation grids, further clarifies the applicable regime. The incentives granted include:

- Customs duties exemption for imported goods directly involved in the realization of the investment;
- VAT exemption for imported or locally acquired goods and services directly involved in the realization of the investment;
- Exemption from transfer duties and land publicity tax for all property acquisitions made within the framework of the investment;
- Exemption from registration duties on company incorporation deeds and capital increases;
- Exemption from registration duties, land publicity tax, and State domain fees on the concession of developed and undeveloped real estate allocated for investment project implementation;
- Property tax exemption on real estate related to the investment for a period of ten (10) years, starting from the date of acquisition.

- **Advantage granted during the exploitation phase of the investment**

  This advantage involves exemption from the Corporate Profit Tax (IBS).

  It is important to note that under this regime, this benefit can be transferred to the co-contractors of the beneficiary investor who are responsible for carrying out the investment on their behalf.

  Furthermore, structuring investments may benefit from state support for the partial or total coverage of the necessary land development and infrastructure works to bring the investment to fruition. This is done through a convention established between the investor and the agency acting on behalf of the state. The agreement is concluded after approval by the government.

1.5.2. Transfer or cession of investment

The goods and services that have benefited from the advantages provided by the provisions of Law No. 22-18 and in accordance with Executive Decree No. 22-299 of September 8, 2022, can be transferred upon authorization from the Agency, at the investor's request.

If the transfer occurs during the depreciation period of one or more assets, the advantages granted must be refunded. The amount to be refunded is calculated prorata based on the remaining depreciation period.

Any transfer of assets and services acquired under advantages without the authorization of the Agency constitutes a breach of the investor's commitments, leading to the annulment of the granted advantages, without prejudice to the sanctions provided by the applicable legislation.

Transfer of Investment is understood as the total transfer of the investment, including through the transfer of social capital, to the benefit of a buyer. The buyer commits to fulfilling all the obligations taken on by the transferring investor by subscribing to a commitment with the Agency, following the model attached to Executive Decree No. 22-299. The authorization is no longer required once the total depreciation of the assets acquired under advantages has been achieved.

2. Implementation of advantages

2.1. Implementation of advantages for the realization phase

While previously the realization deadlines were agreed upon with the Agency, the law now specifies the following realization deadlines:

– 3 years for investments under the incentive regime for priority sectors.
– 5 years for investments under the regime of zones, strategic investments, and/or structural investments.

There is a possibility of a 12-month extension, which may be renewed once for the same duration, for investments that show significant progress.

It is important to note that the new provisions regarding extensions also apply to investments that were previously registered and/or declared under the prior law.

According to Articles 15 and 16 of the referenced Decree, the investment realization period, as indicated in the registration certificate, can be extended by 12 months if the realization of the investment exceeds 20% of the planned amount. This period can exceptionally be extended by another 12 months if the progress exceeds 50%.

Moreover, partial exploitation of the investment with immediate benefits from this phase, as set out in the current regulations, results in the loss of the possibility of extending the realization deadline.

The Decree sets out deadlines for the investor to apply for an extension of the realization period, which are 3 months before the expiration of the realization deadline and, at the latest, 3 months after the expiration of this deadline.

2.2. Implementation of advantages for the exploitation phase

After the completion of the investment realization phase, the investor must ensure the advantages of the exploitation phase.

The entry into the exploitation phase is formalized by a report, certifying that the investor has honored their commitments regarding the acquisition of goods and services, at least to the extent necessary to carry out the activity outlined in the registered investment, in accordance with the registration certificate. The entry into exploitation is verified through an on-site visit by authorized personnel from the benefits management center.

The duration of the advantages during the exploitation phase is determined based on specific grids. The exploitation phase for each regime is as follows:

– Sectors regime: 3 to 5 years from the date of entry into exploitation.
– Zones regime: 5 to 10 years from the date of entry into exploitation.
– Strategic and Structural investments regime: 5 to 10 years from the date of entry into exploitation.

Extension or rehabilitation investments benefit from advantages granted under the exploitation phase, proportionally to the new investments relative to the total investments made.

2.3. Reinvestment obligation

The 2023 Finance Law specifies the calculation base for the portion to be reinvested annually, namely the obligation to reinvest only 30% of the fiscal advantages, within the

limit of 30% of the profits made. This means that businesses that do not make profits are excluded from this obligation.

The legislator has also more extensively defined the forms of eligible investments as follows:

- Acquisition of assets, both tangible and intangible, directly related to the production of goods and services.
- Acquisition of investment securities.
- Acquisition of shares, social parts, or equivalent securities that enable participation in the capital of another company producing goods, public works, construction, or services, provided the entire amount of the advantage to be reinvested is released.
- Taking a stake in the capital of a "start-up" or "incubator" company, provided the entire amount of the advantage to be reinvested is released

3. Institutions responsible for investment promotion

3.1. National investment council (CNI)

The National Investment Council is responsible for proposing the state's strategy regarding investment, ensuring its overall coherence, and evaluating its implementation.

In this context, the CNI submits an annual evaluation report to the President of the Republic. The CNI [43] is under the authority of the Prime Minister, who chairs it.

It has a function of proposal and study and is also vested with real decision-making power. Its main tasks are as follows:

Regarding its proposal and study functions, the CNI:

- Proposes the strategy and priorities for investment development;
- Studies and approves the national investment promotion program submitted to it and sets the objectives for investment development;
- Proposes adaptations to incentive measures for investment based on observed developments;
- Proposes to the government all decisions and measures necessary for the implementation of the investor support and encouragement system;
- Studies certain proposals for new benefits as well as any modifications to existing benefits;
- Proposes to the government all decisions and measures necessary for the implementation of the investment support and encouragement system;
- Encourages and promotes the creation and development of institutions and financial instruments adapted to financing investment;

Regarding the decisions made by the CNI [44], these include:

43 Executive Decree No. 22-297 of September 8, 2022, setting the composition and functioning of the National Investment Council.
44 Executive Decree No. 22-298 of September 8, 2022, establishing the organization and functioning of the Algerian Investment Promotion Agency.

- Examining and approving the list of activities and goods excluded from the benefits, as well as their modification and updating;
- Studying and approving the criteria for identifying projects that are of interest to the national economy;
- Establishing the list of expenses that may be charged to the fund dedicated to investment support and promotion;
- Determining the areas that may benefit from the derogatory regime.

Additionally, the CNI evaluates the funds needed to cover the national investment promotion program, encourages the creation of institutions and financial instruments, and generally deals with all investment-related matters.

All ministers in charge of economic affairs are members of the CNI, totaling 9 members. The President of the Board of Directors and the Director General of the National Investment Development Agency (ANDI) assist as observers only.

3.2. Algerian investment promotion agency (AAPI)[45]

This Agency, formerly known as ANDI, is now intended to play a real role as a promoter and facilitator for investors.

In coordination with the relevant administrations and organizations, the Agency is responsible for:

- Promoting and enhancing investment and the attractiveness of Algeria both domestically and internationally, in collaboration with Algeria's diplomatic and consular representations abroad;
- Informing and raising awareness among the business community;
- Managing the investor digital platform;
- Registering and processing investment files;
- Assisting investors in completing the formalities related to their investment;
- Managing the benefits, including those related to the portfolio of projects declared or registered before the publication of Investment Law No. 22-18;
- Monitoring the progress of investment projects.

The Agency collects a fee for processing investment files. The organization and operation of the Agency, as well as the amount and modalities for collecting the fee, are determined by regulation.

It is important to note that the portfolio of projects previously under the responsibility of the National Investment Council has been transferred to the Agency.

• Single windows

The Agency is divided into two types of single windows: one dedicated to major national investment projects and foreign investments, and decentralized single windows for investments.

The single window dedicated to large investment projects and foreign investments, along with the decentralized single windows, are responsible for handling all the necessary steps to implement investment projects, encourage, and assist investors.

These single windows will have the ability to issue and grant all decisions, documents, and authorizations related to the implementation and operation of the investment project;

45 Executive Decree No. 22-298 of September 8, 2022, establishing the organization and functioning of the Algerian Investment Promotion Agency.

the acquisition of land for investment; and the monitoring of commitments made by the investor.

Notwithstanding any contrary provisions, representatives of organizations and administrations within the single windows are authorized to issue, within the timeframes established by the legislation and regulations in force, all decisions, documents, and authorizations related to the implementation and operation of the investment project registered at the single windows.

- **Investor digital platform**

Article 23 of the law established a digital platform for investors. The Agency is responsible for setting up and managing the investor digital platform, which will serve the following objectives:

– Communication tool, providing information on investment opportunities, land offers, incentives, benefits, and related procedures;
– Orientation, assistance, and monitoring tool for investments, from their registration and throughout the operating period;
– Facilitation and dematerialization tool: Interconnected with the information systems of other organizations and administrations in charge of investment, this will allow the dematerialization of all procedures and formalities.

CHAPTER 5

Foreign trade regulations

1. Legal framework for imports and exports

1.1. Measures for controlling imports and exports

A key measure introduced by the government is Law No. 15-15 [46] of July 15, 2015, which amended and supplemented the provisions of Ordinance No. 03-04 of July 19, 2003, concerning the general rules applicable to the import and export of goods.

In this context, it is important to note that contrary provisions regarding the administration of import and export license regimes have been repealed.

The conditions and procedures for applying the licensing regimes are established by Executive Decree No. 15-306 of December 6, 2015.

Measures restricting the import of certain goods have been introduced through Executive Decree No. 18-02, which designates the goods subject to the restriction regime. However, this list has been replaced by a new one set by Executive Decree No. 19-12 of January 24, 2019, which temporarily suspends five goods related to motor vehicles and tractors.

Moreover, the Law No. 18-13, which is the Complementary Finance Law for 2018 (LFC 2018), introduced in Article 2 a new duty, known as the provisional safeguard additional duty (DAPS), applicable to the import of goods put into consumption in Algeria. The rate for this duty is set between 30% and 200%.

To this end, a decree dated January 26, 2019, establishes the list of goods subject to the DAPS (Temporary Additional Safeguard Duty) and their corresponding rates, enumerating 1,095 goods subject to the duty. A second decree, dated April 8, 2019, amended this list, which now includes 992 goods subject to the duty. An updated list of goods subject to the DAPS will be published soon to include new products.

46 Law No. 15-15 of July 15, 2015, amending and supplementing Ordinance No. 03-04 of July 19, 2003, relating to the general rules applicable to import and export operations of goods.

- **Justifications for restrictions on the free movement of goods**

While the free movement of goods (import and export operations) remains the principle, measures of quantitative and/or qualitative restrictions and/or product control measures at import or export may be applied. A non-exhaustive list of justifications for these restrictions is set out in Article 6 bis of the said law, which includes the following purposes:

– To conserve exhaustible natural resources alongside the application of these restrictions on production or consumption;
– To ensure the national transformation industry receives the essential quantities of raw materials produced in the national market, in accordance with the principles set out in the international agreements to which Algeria is a party;
– To implement essential measures for the acquisition or distribution of products in anticipation of a shortage;
– To safeguard external financial balances and market equilibrium.

- **General regime of import and export licenses**

To this end, import or export licenses for products may be established. A license is understood as "any administrative prescription that requires, as a prerequisite, the presentation of documents for customs clearance of goods in addition to those required for customs purposes." It should be noted that minor discrepancies in value, quantity, or weight relative to what is stated on the license will not be taken into account. The rate of these discrepancies will be fixed in the license according to the nature of the product [47].

Automatic licenses are those granted following a request and do not aim to introduce restrictions on imports or exports. A license request may be submitted any business day before the customs clearance of goods. The license is valid for one year but may be extended if circumstances require it.

Non-automatic licenses are defined negatively: a non-automatic license is one that does not meet the definition of an automatic license. These licenses should not cause additional restrictions or distortions beyond those caused by the introduction of the restriction itself. Their scope and duration must comply with the principles of necessity and proportionality. The validity period of a non-automatic license, which must be reasonable, is set at 6 months.

Import and export operations are subject to foreign exchange control [48], which therefore makes these operations subject to prior procedures, such as bank domiciliation [49].

Imported products must comply with specifications related to quality and safety, in accordance with the applicable regulations, including Law No. 09-03 of February 25, 2009, concerning consumer protection and the repression of fraud, as amended and supplemented by Law No. 18-09 of June 10, 2018 [50], Executive Decree No. 13-378 of November 9, 2013, setting the conditions and procedures regarding consumer information, Law No. 16-04 of June 19, 2016, amending and supplementing Law No. 04-04 of June 23, 2004, related to standardization, as well as the Order of June 15, 2002, determining the application procedures for Article 22 of the Customs Code concerning the importation of counterfeit goods.

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47 Article 6 quinquies of Law No. 15-15 of July 15, 2015.
48 Ordinance No. 03-11 of August 26, 2003, relating to currency and credit, as amended and supplemented by Ordinance No. 10-04 of August 26, 2010.
49 See Chapter 6: Foreign exchange regulations, Page 97. ↗
50 In this law, it is important to note the creation of a National Council for the Protection of Consumers, including credit consumers, the consideration and determination of the role of consumer protection associations, the establishment of a fraud enforcement system, the obligation for warranties and after-sales service, the obligation for product conformity, and the obligation to inform the consumer

Under the provisions of Law No. 16-04, the definition of standardization has been revised and determined as follows: "Standardization is the activity aimed at establishing provisions for common and repeated use, addressing real or potential problems, with the goal of achieving the optimal degree of order in a given context." A standard is now a document approved by the recognized standardization body, which provides, for common and repeated uses, rules, guidelines, or characteristics for given products, processes, and production methods, whose compliance is not mandatory. It may also partially or fully address terminology, symbols, packaging, labeling, or marking requirements for a given product, process, or production method.

The standardization body is now authorized to become a national member of the corresponding international and regional organizations.

1.2. Trade defense measures

National production can benefit from tariff protection in the form of ad valorem duties as well as trade defense measures. These include safeguard measures, countervailing measures, and anti-dumping measures.

- **Safeguard measures**

Safeguard measures apply to imported products in quantities that threaten a domestic industry producing similar or directly competing products. The safeguard measures, as defined by law, aim to suspend, partially or entirely, concessions and/or obligations, and take the form of quantitative restrictions on imports or increased customs duties.

No safeguard measure can be applied without an investigation conducted by the relevant services of the Ministry in charge of foreign trade, in collaboration with the relevant services of the concerned ministries.

A decree dated February 3, 2007, was published in accordance with Article 3 of Executive Decree No. 05-220 [51], establishing the procedures and conditions for conducting investigations regarding the application of provisional and definitive safeguard measures.

The application for the implementation of this measure may be submitted by any concerned party to the authority responsible for the investigation (the relevant services of the Ministry in charge of foreign trade), which decides whether to accept or reject the request within 30 days.

- **Countervailing duties**

A countervailing duty is established to rebalance any subsidy granted to the production, import, or transportation of a product whose exportation to Algeria is likely to cause significant harm to a domestic industry.

The countervailing duty is a specific duty collected in the same way as customs duties. A countervailing duty can only be applied following an investigation conducted by the relevant services of the Ministry in charge of foreign trade.

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51 An interministerial decree dated January 8, 2018, established a system for managing and monitoring safeguard measures under the Ministry of Commerce by creating an intersectoral advisory commission placed under the Ministry of Commerce. This commission is responsible for, among other things, examining safeguard requests and their feasibility; giving its opinion on safeguard requests after reviewing the results of the investigation prescribed by the applicable regulations; providing opinions on any issues related to safeguards; proposing appropriate safeguard measures; and requesting any information or data deemed necessary to carry out its tasks from public and/or private institutions and entities.

An order dated February 3, 2007, was published in accordance with Article 3 of Executive Decree No. 05-221, establishing the procedures and conditions for conducting investigations regarding the application of countervailing duties.

The amount of the subsidy that could lead to the application of the countervailing duty is calculated in terms of the advantage provided to the beneficiary during the investigation period. This period is usually the last closed fiscal year of the beneficiary, but it can also be another period of at least 6 months prior to the opening of the investigation for which financial and other relevant data are available.

- **Anti-dumping duties**

An anti-dumping duty is imposed on any product whose export price to Algeria is below its normal value or the value of a similar product, and whose importation causes or threatens to cause significant harm to a domestic industry.

The anti-dumping duty is a specific duty collected in the same manner as customs duties. The order dated February 3, 2007, further clarifies the application of Article 3 of Executive Decree No. 05-222 of June 22, 2005.

The order sets the procedures and conditions for conducting investigations regarding the application of provisional and definitive anti-dumping duties.

Executive Decree No. 05-222 of June 22, 2005, states that dumping occurs when a product is introduced to the national market at a price lower than the normal value of a similar product. The difference between the export price and the normal price of a similar product is the dumping margin.

Regarding the investigation, it is initiated only if the investigating authority has determined, based on an examination of the level of support or opposition to the opening of the investigation expressed by national producers of the similar product, that the request was supported by national producers whose combined production constitutes more than 50% of the total similar production of the national industry. However, the investigating authority can initiate the investigation on its own for the application of the anti-dumping duty.

2. Obligations of commercial companies

Pursuant to Executive Decree No. 21-94 of March 9, 2021, amending and supplementing Executive Decree No. 05-458 of November 30, 2005 [52], commercial companies engaged in import activities for resale in the state must now subscribe to one of the specifications setting out the conditions and commitments of these commercial companies, depending on whether they engage in regulated or non-regulated activities. The concerned commercial companies must obtain, from the Ministry of Commerce and/or the relevant ministries, a certificate attesting to compliance with the conditions set out in one of the specifications before engaging in their activity.

Moreover, according to the exchange control regulations, the approved intermediary banks are required to ensure the regularity of:

– Foreign trade operations concerning goods in accordance with the applicable legislative and regulatory provisions;
– Contractual clauses;
– International rules and practices.

52 Decree amended and supplemented by Executive Decree No. 13-141 of April 10, 2013, setting the procedures for the importation of raw materials, products, and goods intended for resale in the state.

3. Customs regulations

3.1. Overview of customs regulations

The liberalization of foreign trade in Algeria began in the early 1990s. Today, most products are freely imported, subject to the previously mentioned conditions and the Customs Code as per Law No. 17-04 of February 16, 2017, amending and supplementing Law No. 79-07 of July 21, 1979, which established the Customs Code.

On the tariff level, the protection rate has significantly decreased. This trend has been confirmed since the entry into force, in September 2005, of the association agreement with the European Union (EU), and since January 1, 2009, with the Greater Arab Free Trade Area (GAFTA).

Executive Decree 13-85 of February 6, 2013, amending and supplementing Executive Decree 10-89, which sets out the procedures for monitoring imports exempt from customs duties under free trade agreements, specifies that the duty exemption request now also applies to individuals. The aforementioned provision has been reformulated as follows: "Any legal or natural person engaged in production and/or commercial activity, in accordance with the applicable legislation and regulations, must submit a request for customs duty exemption before any import operation."

In the same vein, Law No. 22-15 of July 20, 2022, recently enacted, establishes the rules governing free zones and defines them in Article 2 as delimited areas within the customs territory where industrial and/or commercial and/or service activities are carried out, and which are governed by regulatory provisions.

The commercial transactions carried out in the free zone must be conducted using convertible currencies regularly quoted by the Bank of Algeria and whose importation is duly verified by it or by an accredited commercial bank. These zones allow operators to freely export and import goods and services in accordance with the fiscal, customs, and exchange regimes provided for by the said law, and benefit from the exemption from all duties, taxes, levies of a fiscal, parafiscal, and customs nature, except for those mentioned in the law.

The operator responsible for managing the free zone is subject to the legislation and regulations on customs, exchange, the environment, as well as employment and social security.

Under the GAFTA (Greater Arab Free Trade Area), goods manufactured in the free zone do not benefit from customs duty exemptions. The competent services of the customs department are the only ones authorized to verify the truthfulness and admissibility of the supporting documents regarding the origin of the products.

It should be emphasized here that the Temporary Additional Duty (DAP) was designed to balance the impact on public finances caused by the reduction of customs duties, the removal of the administrative value, and the additional specific tax. Indeed, since 2001, the DAP rate has decreased by 12% each year.

Furthermore, three customs duties are in effect, with respective rates of 5%, 15%, and 30%, in addition to the 0% exemption duty rate.

3.2. Customs clearance formalities

In general, the customs clearance procedure operates in four stages: submission and customs declaration, establishment of the customs declaration, its control and verification, and finally, the liquidation and payment of duties and taxes.

The concept of customs declaration includes both summary and detailed declarations. In accordance with the law, all goods, whether imported or exported, must be subject to a detailed declaration listing the details of the goods; the accompanying supporting documents must be included. The declaration is signed by the declarant, who can either be the owner of the goods who has previously obtained customs clearance authorization from the customs administration, or a customs agent, either a physical or legal person, authorized as a customs broker by the owner of the goods and approved by the customs administration.

It is worth noting that as a subsidiary measure, when no customs broker is represented at a border customs office, and in the absence of the owner who has obtained the authorization for clearance, the authorized carrier may carry out the customs formalities for the goods they transport and may therefore sign the declaration.

The detailed declaration serves as the basis for customs procedures, foreign trade control, and exchange regulation; it is through this detailed declaration that the declarant indicates the customs regime to be assigned to the goods after clearance. It also serves as the basis for collecting the required duties and taxes and for gathering statistical data.

It should be noted that simplified customs clearance procedures are provided for by Executive Decree No. 13-321 of September 26, 2013, in the form of estimated, simplified, or global declarations. All of these declarations must be regularized through supplementary declarations, which, together with the initial declaration, form a unique and indivisible whole. The benefit of one of the simplified procedures can be granted under an agreement between the customs services and the concerned operator, as well as by decision of the Director-General of Customs for the clearance of goods destined for export [53].

The agreement covers, in particular, the simplified procedure granted, the goods it applies to, its duration, the customs office(s) designated for clearance, and the obligations of the operator. Initial declarations must meet any conditions and formalities that may be required regarding the control of foreign trade and exchange regulations.

Regarding the simplification of customs procedures, it is also important to mention the status of an Authorized Economic Operator (AEO). This concept was introduced by the 2010 Finance Law [54] in Article 89 ter of the Customs Code [55], which provides that the customs administration can grant the status of Authorized Economic Operator to benefit from facilitation measures in the customs clearance procedures. Executive Decree No. 12-93 of March 1, 2012 [56] sets the conditions and procedures for benefiting from the AEO status, the subscription to which is governed by the clauses of the standard specifications annexed to the said Executive Decree.

- **Customs brokers and customs declaration**

According to the Customs Code, all operators in relation with customs, regardless of their area of intervention or activity, are subject to the mandate procedure.

Indeed, the mandate allows the operator to:
– Specify the customs office for which the principal is authorized to act;
– List the powers delegated to the representative;
– Nominate the representative by name.

53 Article 86 quinquies, Law No. 17-04 of February 16, 2017, amending and supplementing Law No. 79-07 of July 21, 1979, concerning the Customs Code.
54 Article 38, Law No. 09-09 of December 30, 2009, concerning the Finance Law for 2010.
55 Article 89 ter, Law No. 79-07 of July 21, 1979, as amended and supplemented, concerning the Customs Code.
56 As published in Official Journal No. 14 of March 7, 2012.

The mandate must be officially recorded by the competent customs officer. For each customs operation, a copy of the mandate will be attached (detailed declaration, request for temporary admission, etc.). Finally, the representative can be a customs broker or an employee of the company.

However, under the provisions introduced by the Complementary Finance Law for 2009, import operations cannot be carried out by proxy. According to this law, for completing the banking formalities related to the import activity and control at the borders of the conformity of the imported goods, the presence of the holder of the commercial register extract or the manager of the importing company is required. Despite these provisions, in a note specifying the modalities for applying this measure, the Ministry of Finance clarified that an employee of the importing company, holding a power of attorney from the legal representative, can perform such formalities, provided that they are duly registered with social security and inform the local authorities.

According to Executive Decree No. 10-288 of November 14, 2010, relating to persons authorized to declare goods in detail, only customs brokers, authorized and approved, and the owners of the goods who have obtained authorization to clear them, are authorized to declare goods in detail. As stated earlier, at border customs offices, in the absence of the owner of the goods and in the absence of a customs broker representative, the authorized transporter may also carry out this formality.

For the main measures, the customs commissioner is approved by the customs administration. It can be a natural or legal person, but if it is a legal person, the latter must designate a natural person, among the legal representatives, to carry out the customs formalities. Among other conditions, the approval is subject to the condition of Algerian nationality for both natural persons and legal representatives of legal persons. The owners of the goods and, where applicable, the carriers must have obtained authorization to clear the goods through the same administration.

- **Supporting documents**

The documents required to comply with the regulatory conditions for access to foreign trade are:

– The extract from the trade register;
– The tax registration card (magnetic card since January 1, 2009, with the taxpayer identification number (NIF).

The data related to the transaction typically includes the following:

– Final invoices or firm contracts;
– Documents related to transport, insurance, and other costs;
– The detailed customs value note.

Documents related to foreign exchange control are:

– The banking domiciliation visa for the final invoice or firm contract in case of capital transfer, and the indication of the chosen payment method (cash, line of credit, own currency, or no payment).

Documents related to foreign trade control are:

– The prior import authorization, if required;
– The visa or certificates of technical control, compliance, and metrology.

The customs clearance of equipment is subject to the production by the importer of related documents. Reference should be made to the different customs regimes in force.

- **Customs value**

The three central data points for any customs declaration, and therefore for any clearance, are the type, value, and origin. Determining the country of origin of a good is essential for:

– Calculating the applicable duties;
– Knowing the formalities related to foreign trade control;
– Establishing foreign trade statistics;
– Applying, where applicable, specific regulations.

A customs value declaration (DEV) system has been established in Algeria. Its purpose is to create a database on customs values; the computerized input of this declaration will make all the information related to customs values available in the SIGAD (Integrated Information and Automated Management System).

In order to rationalize the use of the DEV and reduce reproduction costs of this declaration, it has been decided to limit the DEV to computer input only.

The establishment of the DEV is mandatory for all tariff items since January 1, 2009.

3.3. Customs regimes

Customs regimes are legal statuses assigned to goods after their customs clearance. These regimes determine the duties and taxes to be paid, as well as the foreign trade controls that will be carried out. The detailed declaration is the act through which this customs regime assignment is made.

In accordance with the current legislation, the customs regimes under which goods can be placed include two categories [57]:

- **Definitive customs regimes**

These are the basic regimes that allow the free circulation of goods within the customs territory or their exit from this territory, and include:

– Release for consumption;
– Reimportation in the same condition;
– Definitive exportation;
– Re-exportation.

- **Economic customs regimes**

These are designed to promote the development of certain economic activities (mainly export activities), and to support the competitive capacities of operators in foreign markets. These regimes allow the storage, transformation, use, or circulation of goods under suspension of customs duties, domestic consumption taxes, and other applicable duties and taxes, or potential economic restrictions and prohibitions. Economic customs regimes include:

– Cabotage transport of goods;
– Transformation of goods for release for consumption;
– Transshipment;
– Customs transit;
– Customs warehouses;
– Operating factories;
– Temporary admission;
– Duty-free replenishment;

57 Article 75 bis of Law No. 17-04 of February 16, 2017, amending and supplementing Law No. 79-07 of July 21, 1979, on the Customs Code.

– Drawback;
– Temporary exportation;
– Shipbuilding and aircraft construction.

3.3.1. Warehouse regimes

There are three types of warehouses: public warehouses, private warehouses, and industrial warehouses. It is within these three types of warehouses that equipment is stored under customs supervision.

Decisions related to the approval of public and private warehouses are made by the Director General of Customs, based on a regulatory file prepared by the Chief of Customs Division Inspection and the Regional Customs Director in charge of the relevant territorial area.

Approval files must comply with regulatory standards (layout, equipment, security). General submissions are secured by financial guarantees or mortgages (guarantee payments) upon presentation of traditional supporting documents.

Warehouses are intended for:

– Creating stocks;
– Sales in public warehouses;
– Reducing cash immobilization;
– Eliminating storage costs;
– The possibility of developing subcontracting activities;
– Creating supply stocks.

3.3.2. Temporary admission regime

This regime has been expanded to apply not only to equipment related to production and the execution of works, but also to contracts awarded to non-resident operators or foreign companies, integrated into Algerian legal entities, as well as to residents or established operators within the national territory [58] working in specific sectors.

It facilitates international trade and commercial exploration. It also allows the use and rental of work, production, or transport equipment.

The implementation of this regime requires prior authorization from the customs services. These services set the suspension rate for duties and taxes [59].

The duration of the temporary admission regime depends on the duration of the contract.

Unless authorized by customs administration, goods placed under the temporary admission regime must be presented at the request of customs agents and cannot be lent, rented, used for compensation, or transported outside the authorized operation locations [60].

Furthermore, the goods must not be transferred during their stay under temporary admission [61]. Goods intended for consumption, as well as those whose exact nature cannot be identified by customs authorities, are not eligible for the temporary admission regime.

The following goods are excluded from the benefits of this regime:

– Any equipment likely to be non-presented, difficult to identify, or subject to rapid deterioration through use;
– Equipment to be presented or used at an exhibition, fair, congress, or similar event;

58 Article 3 of Executive Decree No. 17-353 of December 7, 2017.
59 Article 25 of the Finance Law for 2013.
60 Article 178 of Law No. 17-04 of February 16, 2017.
61 Ibid., Article 179.

– Equipment that requires repair or transformation;
– Consumables and perishable goods not likely to be re-exported within the prescribed time limits.

The temporary admission regime is composed of two sub-regimes based on the purpose of the admission request:

– Temporary admission with re-exportation in the same condition;
– Temporary admission for active improvement.

• Temporary admission with re-exportation in the same condition

Two scenarios arise depending on whether the temporary admission is intended, on the one hand, for production, execution of works, or transport in domestic traffic, and on the other hand, for use in the same condition.

— Temporary admission of equipment for production, execution of works, or transport in domestic traffic

This regime allows foreign non-resident companies to import the necessary equipment for executing work and service contracts under partial suspension of duties and taxes. It benefits foreign non-resident companies engaged in contracts with local partners, mixed-economy companies, or foreign organizations regularly established in Algeria. Algerian law companies may also benefit from this regime under certain conditions.

Goods imported under this framework must necessarily be placed under the temporary admission regime, except for:

– Goods intended for setting up living bases (excluding Saharan barracks),
– Consumable goods and spare parts for the maintenance and repair of temporarily admitted equipment,
– Goods to be incorporated into the works.

To request this regime, the competent customs office must be identified according to the place of use of the imported equipment. The request must be submitted to the Chief of the Divisional Customs Inspection responsible for the relevant customs office. If the contract covers multiple inspection divisions, the importer can choose one of the competent customs offices to complete the formalities. The following documents are required:

– A copy of the domiciled work contract for foreign companies,
– A domiciled contract for Algerian companies (in case of rental),
– A certificate from the project owner mentioning the contract references, purpose, and work deadline (for foreign companies).

Furthermore, temporarily admitted equipment is subject to a guarantee of 10% of the suspended duties and taxes in exchange for customs facilitation.

This temporary admission regime cannot exceed the contract duration. However, it may be extended under an amendment to the initial contract. If no amendment is required, an extension may be granted based on a certificate from the project owner. In case of transfer to a new work or service contract, an extension is also possible. At the end of the allowed period, unless extended, the equipment must be assigned to an authorized customs regime within 3 months.

— Temporary admission for use in the same condition

This regime allows for the temporary importation of equipment for use in its original state, without prior authorization, and under full suspension of duties and taxes. Eligible items include:

- Containers (transport equipment intended for goods transport), pallets, packaging, samples, and goods imported for commercial testing and demonstration,
- Goods imported for production purposes,
- Scientific equipment,
- Educational equipment,
- Equipment imported for sports purposes,
- Equipment for tourism promotion,
- Equipment imported for humanitarian purposes,
- Welfare equipment for seafarers,
- Commercial road vehicles.

Like equipment imported for production or execution of works, a guarantee of 10% of the suspended duties and taxes is required, along with a customs declaration (or an ATA carnet).

The temporary admission duration depends on the intended operation and may be extended based on a case-by-case assessment by customs authorities. If customs clearance is done using an ATA carnet, the stay duration cannot exceed the validity of the carnet, and a new one will be required if necessary. Once the temporary admission period expires, the equipment must be re-exported or transferred to another authorized customs regime.

- **Temporary admission for inward processing**

The purpose of this regime is to allow companies to import inputs needed for production intended for re-exportation after processing. To benefit from this regime, companies must be established in Algeria and either use the imported goods themselves or subcontract to an Algerian firm.

The customs administration grants temporary admission authorization and determines the regime's duration, which must align with the completion of the intended operation. Extensions may be granted upon a justified request from the beneficiary. At the expiration of this period, the processed product must be exported or transferred to another authorized customs regime.

It is also important to note that eligible operations under this regime are occasional and not systematic.

3.3.3. Drawback regime

This customs regime allows for a total or partial refund of import duties and taxes paid on exported goods or on materials consumed during their production [62].

A specific implementation text will clarify its application details.

3.4. Measures for protecting intellectual property rights

These measures apply to counterfeit goods that infringe intellectual property rights, such as:

- A registered trademark,
- A registered industrial design,
- Copyrights or related rights,
- A patent.

Such goods are prohibited from import and export, as well as goods that misleadingly suggest Algerian origin. The customs administration takes necessary measures to destroy counterfeit goods and prevent any financial gain from such operations by banning their re-exportation.

62 Article 22 and 23 of the Finance Law for 2013.

3.5. Implementation of the euro-mediterranean agreement establishing an association between the European community and Algeria

This agreement, signed in Valencia on April 22, 2002, was ratified by Algeria on April 27, 2005, after its adoption by the Algerian Parliament on April 26, 2005. The general objective of the agreement is to promote the progressive liberalization of trade in goods, services, and capital. It should be noted that, in this regard, the formal process of evaluating the agreement has been initiated.

The agreement notably provided, based on the preferential regime granted to Algerian industrial products in force since 1976, for a gradual reduction of customs duties on imports of European industrial products: a 25% reduction upon the agreement's entry into force, a 40% reduction in a second phase after a period of 7 years, and a total elimination of duties and taxes at the end of a 12-year period.

The applicable rules [63] are as follows:

3.5.1. Tariff preferences

These apply to both customs duties and taxes of equivalent effect (DAP), according to the concession scheme provided and the nature of the imported goods.

Industrial products that will be fully exempt from customs duties and taxes of equivalent effect are listed in a tariff classification covering raw materials and other inputs intended for operational purposes.

3.5.2. Rules of origin

Only Algerian or Community goods can benefit from the tariff preferences provided by the agreement. In this respect, proof of origin is established by the EUR.1 movement certificate. To be considered of Algerian or Community origin, goods must meet the conditions and criteria set by Protocol No. 6 of the Association Agreement.

3.5.3. Quota system

The tariff quota system is a mechanism that limits the quantity of goods eligible for trade preferences. It allows for the restriction of quantities admitted under full or partial suspension of customs duties and taxes of equivalent effect.

The granting of preferences will follow the well-known principle of 'first come, first served', which allows for the customs clearance of imports under privileged conditions, until the conditions set by the quota are reached. Imports made after the date the quota is exhausted will be admitted with the payment of the applicable duties and taxes.

Except for the application of the provisions of Article 44 of the agreement regarding the adequate and effective protection of intellectual, industrial, and commercial property rights, goods of a community nature imported directly (direct transport) from the EU, starting from September 1, 2005, must be declared, taking into account the possible tariff quota for said goods.

63 See above the developments related to Executive Decree No. 14-219 supplementing Executive Decree No. 10-89 of March 10, 2010, which sets the procedures for monitoring imports under customs duty exemptions within the framework of free trade agreements, paragraph No. 5.3.1.

- **Goods not subject to quotas**

– These must be declared under the consumption regime with a declaration code marked '1025';
– The origin of the goods must be community (codes for 25 countries or EU code = 599);
– A certificate 'EUR. 1' indicating community origin must be attached;
– The provenance must also be community (direct transport rule).

- **Goods subject to quotas**

In addition to the conditions mentioned above, the advantages provided will only be granted depending on the availability of the quotas. It is the quota management system that is intended to centralize the information and allocate the available quantities daily according to timestamp (in other words, according to the order of registration of the declarations of the day).

Regarding export, in order to benefit from the preferences for access to the community market as provided by the agreement (Articles 8 and protocols 1, 3, and 5), Algerian goods exported to the European Union must be accompanied by an 'EUR 1' certificate of origin.

Exporting companies have the option to contact the chambers of commerce and industry to obtain the 'EUR. 1' certificates and all related documents.

The 'EUR. 1' circulation certificate is issued by customs services if the goods covered by the certificate are considered to be of Algerian origin. This certificate is endorsed by the customs office responsible for managing export operations, as soon as the export has been carried out.

Also, it is important for the recipient to have the following documents:

– A cleared role extract or a schedule or legal payment deferral;
– A certified copy of the updated certificate with the national social insurance fund for salaried workers (CNAS) and/or the national social security fund for non-salaried workers (CASNOS) or a certificate justifying the status with the national social insurance fund for salaried workers (CNAS) and/or the national social security fund for non-salaried workers (CASNOS);
– A tax identification number (NIF).

3.5.4. Customs clearance circuits

Only the 'green' circuit will be addressed, which allows for the rapid customs clearance of goods. Nearly all goods, products, and equipment covered by the association agreement are intended to benefit from this system. However, it will be necessary to wait for instructions from the General Directorate of Customs to be sent to the competent services, determining the list of concerned products and their tariff position.

CHAPTER 6

Foreign exchange regulations

1. Historical context

Foreign exchange regulations no longer constitute an obstacle for investors and economic operators today, except for specific aspects related to the management of the financial account of the balance of payments.

The current convertibility of the dinar resulted, starting in 1994, in the implementation of the commercial convertibility of the local currency, which was backed by the liberalization of payments for imports. This commercial convertibility led the Bank of Algeria in 1994 to establish fixing for determining the exchange rate of the dinar, based on supply and demand in the foreign exchange market.

In 1996, an interbank foreign exchange market replaced fixing, where the Bank of Algeria intervenes to satisfy or authorize foreign currency requests exclusively intended, within the framework of the current convertibility of the dinar, for payments or transfers related to current transactions (import of goods and services, labor and investment income, etc.).

In a second phase, the current convertibility of the dinar was extended to medical care, education, and travel. For all these expenses, resident nationals are authorized to withdraw and transfer abroad, in exchange for dinars, the necessary foreign currency within the limits of the permitted annual amounts and upon presentation of supporting documents.

Algeria's adoption in 1997 of Article VIII of the IMF Statutes made the convertibility of the dinar for current transactions irreversible. Indeed, a member country of the IMF that subscribes to this provision commits not to impose restrictions on payments and transfers related to international current transactions.

This convertibility, under its current management framework, applies solely to the current account of the balance of payments. Capital account convertibility (formerly known as the capital account)—that is, the liberalization of capital movements—has not yet been fully implemented, except for inbound flows into Algeria (such as foreign direct investment or portfolio investment by non-residents). However, the existing legislative and regulatory

framework (Ordinance No. 2002-01 on Money and Credit, and the regulations of the Bank of Algeria) already allows resident economic operators to request the transfer of funds to finance activities abroad that are complementary to the production of goods and services in Algeria. Such transfers require prior authorization from the Monetary and Credit Council and are subject to the obligation to repatriate surplus revenues and/or profits.

Accordingly, the current account convertibility of the dinar, the guarantee of profit transfers and the repatriation of proceeds from the potential sale of assets arising from foreign investments, as well as the stability of the exchange rate, contribute to fostering a favorable environment for foreign investment.

2. Role of commercial banks

The system under which foreign exchange control currently operates follows a "transaction-specific" approach to international transactions.

Each inflow or outflow of foreign currency is examined individually. The idea is that, to combat fraud, it is necessary to prevent operators, whether national or foreign, from transferring or acquiring foreign currency without it being declared, and therefore in some way authorized.

This approach complicates the processing of transactions with foreign entities. However, the foreign exchange control authorities are increasingly moving towards a more flexible approach, by delegating certain functions to authorized intermediaries, namely commercial banks, which are authorized to process these transactions at their counters.

These authorized intermediary banks must submit a monthly summary report of executed transfers to the Bank of Algeria (General Directorate of Foreign Exchange), no later than the 15th of the month following the reference period. This report must be submitted in both electronic and paper formats, with a breakdown by mode of payment.

Since the publication of Instruction No. 02-15 of July 22, 2015, and as of August 1, 2015, the level of external commitments by signature of banks and financial institutions must not exceed at any time their regulatory own funds, as defined by the prudential regulations in force.

For import transactions, "external commitments by signature" refer to all signature commitments related to import transactions, net of guarantee deposits and provisions established in dinars for these operations.

3. Principle of freedom of capital movements in the commercial framework

The principle is the freedom of capital movements to finance an economic activity, as well as the repatriation of investment returns. However, this freedom is subject to strict control. Its implementation by the foreign exchange control services is no longer "bureaucratic", as in 2005, the Bank of Algeria adopted new measures that facilitate the transfer of dividends, profits, proceeds from the sale of foreign investments, attendance fees, and directors' shares for foreign administrators.

Transfer requests are no longer processed by the Bank of Algeria, since delegation has been given to authorized commercial banks to handle these requests at their level.

The legislator has reinforced the sanctions regarding violations of foreign exchange regulations and capital movements to and from abroad as follows [64]:

- The means used for fraud are confiscated;
- The definition of foreign exchange violations is formally extended to the purchase, sale, and export of any means of payment, securities, or debt instruments denominated in foreign currency, as well as to the export and import of any means of payment, securities, or debt instruments denominated in national currency, when these operations are carried out in violation of the legislation and regulations in force;
- The jurisdictional rules of the National Transactions Committee are revised:
  - When the value of the offense is greater than 500,000 DA and less than or equal to 20 million DA, the case falls under the National Transactions Committee;
  - When the value of the offense is less than 500,000 DA, it falls under the Local Transactions Committee.
- Exclusion from the benefit of transaction procedures for:
  - Those who have already benefited from a transaction,
  - Repeat offenders,
  - Cases where the value of the offense exceeds 20 million DA,
  - Cases where the violation is related to money laundering, terrorism financing, illicit drug trafficking, corruption, organized crime, or transnational organized crime.
- The transaction procedure does not prevent the initiation of public prosecution when:
  - The value of the offense is 1 million DA or more, in the case of foreign trade transactions;
  - The value of the offense is 500,000 DA or more, in other cases.
- Abolition of the article that required criminal prosecution to be subject to a complaint from the Minister of Finance, the Governor of the Bank of Algeria, or their representatives.

4. Foreign currency accounts

The principle of freedom to open a foreign currency account with authorized intermediary banks, established in 1990, has been maintained and reaffirmed in 1991 for both residents and non-residents.

Article 1 of Regulation No. 09-01 of February 17, 2009, issued by the Bank of Algeria, concerning foreign currency accounts of natural persons of foreign nationality, both residents and non-residents, as well as non-resident legal entities, is defined as follows:

"Natural persons of foreign nationality, whether residents or non-residents, and non-resident legal entities are authorized to open a foreign currency account with an authorized intermediary bank, denominated in a freely convertible foreign currency."

The accounts are classified as resident accounts or non-resident accounts; the latter include CEDAC accounts and INR accounts [65].

64 Ordinance No. 10-03 of August 26, 2010, amending and supplementing Ordinance No. 96-22 of July 9, 1996, on the suppression of violations of foreign exchange legislation and regulations and capital movements to and from abroad.

65 See Chapter 17: 7.2. Banking Products and Services. Page 270. ↗

4.1. Resident accounts

Regulation No. 90-02 of the Bank of Algeria, amended and supplemented by Regulation No. 94-10 of April 12, 1994, concerning the conditions for opening and operating foreign currency accounts for resident legal entities, provides that a legal entity may open multiple foreign currency accounts. Additionally, an account may be opened for each specific currency. This principle was later extended to non-residents.

However, an account opened in a specific currency may receive deposits or transfers of funds denominated in another currency.

• Account operations

While all Algerian residents are authorized to acquire and hold means of payment denominated in a freely convertible foreign currency within Algeria, these means of payment must be acquired, exchanged, and deposited exclusively with Algerian banks.

Foreign currency accounts opened by Algerian private law legal entities may be credited with:

– Transfers from abroad or from other foreign currency accounts,
– Deposits of any other foreign currency-denominated means of payment,
– Revenue from the export of goods or services carried out by the account holder, provided the funds are eligible to be maintained in a foreign currency account.

• Account usage

Within the available balance, the account holder may issue orders for:

– Any payment within Algeria,
– The purchase of foreign currency-denominated equipment, supplies, tools, products, and mate-rials, whether in Algeria or abroad, for the purpose of their business activity,
– Payment for services acquired from abroad, including salaries of foreign personnel, fees, royalties, licenses, or patents,
– Any other transfer or payment abroad, subject to prior authorization from the Bank of Algeria.

These accounts can only be used in connection with the holder's business activities.

Regulation No. 07-01 of February 3, 2007, amended and supplemented, regarding the rules applicable to current transactions with foreign countries and foreign currency accounts, entered into force on May 13, 2007 and repealed Regulation No. 95-07 of December 23, 1995, which related to exchange control.

This regulation aims to define the principle of convertibility of the national currency for current international transactions and the applicable rules regarding transfers to and from abroad related to these transactions, as well as the rights and obligations of foreign trade operators and authorized intermediaries.

It stipulates that payments and transfers related to current international transactions are unrestricted and must be carried out through authorized intermediaries.

The regulation defines payments and transfers related to current international transactions as, among others:

– Payments and transfers made for foreign trade operations involving goods and services (notably technical assistance) and current operations related to production;
– Payments related to interest on loans and net income from other investments;
– Loan repayments.

An instruction from the Bank of Algeria No. 02-07 of May 31, 2007, regarding operations related to current transactions with foreign countries, amended by Instruction No. 05-07 of June 11, 2007, and implemented through Instruction No. 03-07 of May 31, 2007, specifies the scope of current transactions.

This instruction classifies current transactions into nine categories:

- Foreign trade operations on goods;
- Transport-related operations;
- Insurance and reinsurance operations;
- Financial operations;
- Travel;
- Technical assistance and operations related to production;
- Communication-related operations;
- Income;
- Other current operations.

5. Import regime

5.1. Domiciliation

Under the current regulations, the processing of domiciliation operations must comply with the following principles:

Any contract for the import of goods and services payable by foreign currency transfer must be mandatorily domiciled with an authorized intermediary. The domiciliation of any import operation is an essential prerequisite for its execution, financial settlement, and customs clearance.

This regime applies to banks, administrations, public and private producers duly registered in the commercial register, traders, wholesalers registered in the commercial register, dealers, and wholesalers accredited by the Monetary and Credit Council.

Pursuant to Instruction No. 02-2022 of July 28, 2022, on risk management in domiciliation operations related to foreign trade, the provisions of Instruction No. 05-2017 of October 22, 2017, governing the specific conditions for the domiciliation of import operations for goods intended for resale in their original state, have been repealed. This instruction required the domiciliation of any import operation of goods for resale in their original state at least 30 days prior to the shipment of the merchandise, along with the importer's obligation to constitute a deposit with the domiciliary bank amounting to at least 120% of the import transaction's value, except for certain sectors exempted from this obligation.

A tax, referred to as the "bank domiciliation tax," applies to the importation of goods, merchandise, and services, at the following rates:

- 0.5% of the import amount for any request to open a domiciliation file for goods or merchandise intended for resale in their original state, with a minimum tax amount of 20,000 DA [66];
- 4% of the domiciliation amount for service imports, except for reinsurance operations, which are exempt from this tax;
- 1% for imports conducted under CKD/SKD kits and collections, with a minimum tax amount of 20,000 DA;

66 Article 64 of the Finance Law for 2020.

– 5% of the domiciliation amount for contracts relating to royalties or any remuneration paid for the use or licensing of a right.

Capital goods and raw materials not intended for resale in their original state are expressly excluded from this obligation, provided that the importer subscribes to a prior commitment for each import operation not to resell these goods.

The domiciliation of an import operation entails:

– For the importer, the obligation to select, prior to the execution of the operation, an authorized intermediary bank with which they commit to conducting all banking operations and formalities required under foreign trade and exchange regulations;
– For the bank, the obligation to carry out or ensure the execution of operations and formalities as prescribed by the applicable regulations.

From a legal perspective, the act of domiciliation for an import transaction is considered a "mere administrative formality" serving as a technical support for exchange control and foreign trade oversight, exercised both by the banking system and national customs authorities. The financial settlement of the transaction is executed through the debit of an account, based on a written order from the client. The bank remains responsible for the proper clearance of the import file, which, under Regulation No. 07-01 of February 3, 2007, concerning rules applicable to current transactions with foreign countries and foreign currency accounts, must be completed within three months or one month following the final payment, depending on whether the contract involves cash payment or deferred payment.

The possibility of domiciling import operations for small equipment and other goods for personal use is granted to certain professional categories in the health sector and to legally constituted agricultural cooperatives. The acceptance of domiciliation files by the authorized intermediary is subject to the assessment of:

– The financial standing and solvency guarantees provided by the client;
– The client's ability to execute the operation under optimal conditions and in compliance with international trade rules and practices;
– The compliance of the transaction with foreign exchange and trade regulations.

5.2. Form and content of the commercial contract

As a preliminary requirement, any request for domiciliation must be accompanied by the following documents:

– A contract in proper form;
– A pro forma invoice;
– A firm purchase order or letter;
– A final purchase confirmation;
– Correspondence exchanges containing all necessary details clearly demonstrating that a binding agreement has been reached.

Furthermore, with respect to the commercial contract specifically, it must include the following information:

– The names and addresses of the contracting parties;
– The country of origin, provenance, and destination of the goods or services;
– The nature of the goods or services;
– The quantity, quality, and technical specifications;
– The selling price of the goods or services in the currency used for invoicing and payment;
– The delivery timelines for goods and completion schedules for services;

– The contractual clauses related to risk assumption and other incidental costs;
– The terms and conditions of payment.

5.3. Payment of imports

Under the legislation currently in force, the payment of imports intended for resale in their original state is carried out by documentary credit or documentary collection. However, the Finance Law for 2021 now provides that such payment shall be made using a "deferred payment" instrument, payable within 45 days from the date of shipment of the goods. The modalities for implementing these provisions will be specified by the Ministry in charge of finance.

The free transfer method is granted to producing companies for the importation of raw materials, spare parts, and new equipment that contribute to increasing the productivity of manufacturing enterprises. This method of payment is authorized on the condition that "these imports are strictly intended for production purposes and that the total annual orders under this framework do not exceed 2 million DA per company."

It is up to the monetary authority to ensure strict compliance with this limitation. The concerned companies remain subject, like any other business, to the obligation to domicile the import operation, regardless of the payment method used.

Service imports are excluded from the documentary credit obligation.

The requirement for documentary credit and prior domiciliation (as mentioned above) applies to the importation of goods with a value exceeding 100,000 DA FOB, initiated by private economic operators.

Service imports, imports of goods below this threshold, or those initiated by ministries or public administrations may therefore continue to be paid via free transfer [67].

The opening of documentary credits must be carried out through correspondents approved by Algerian banks. Due to the banking commitment involved, this payment method requires a credit authorization, the granting of which remains at the bank's discretion.

In continuation of the amendments introduced by the Complementary Finance Law for 2009, Note of the Bank of Algeria [68] clarified the conditions and exceptions under which import invoices for goods and/or services may be eligible for payment transfer.

In this regard, import invoices for goods and/or services that remain unpaid 360 days after the customs clearance date (for goods) or the invoice date (for services), regardless of the payment method used, shall no longer be eligible for transfer, except in the following cases:

– Where the payment deadline is explicitly stipulated in the contract or financial agreement, and the external debt declaration has been duly made in accordance with the applicable regulations;
– By judicial decision.

As a general rule, the payment of imports shall be made in Algerian dinars, equivalent to the amount in foreign currency. Such payment shall be executed by the domiciliary bank.

In certain cases, imports are financed through appropriate credit facilities and may benefit from export credit facilities granted at the supplier's country of origin. The financing arrangement is structured by the Algerian domiciliary bank.

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67 Clarifications Provided by a Second Note from the Ministry of Finance and the Bank of Algeria on August 11, 2009.
68 Note from the Bank of Algeria, No. 180/DGC/2009 dated October 13, 2009.

By way of exception, imports may be settled using funds withdrawn from foreign currency accounts.

The authorized intermediary bank shall execute, upon the operator's request, any foreign payment transfer, provided that the following documents are submitted:

- Shipping documents proving the dispatch of goods;
- Final invoices related to the transaction;
- The customs clearance document "D-10", which must be submitted by the importer

The contribution of equipment in kind as an advance for the incorporation of a company is no longer authorized, due to the prohibition on importing used goods.

For service imports, the transfer shall be made based on:

- Invoices validated by the resident importer;
- Certificates of service completion;
- The contract;
- A transfer certificate issued by the General Directorate of Enterprises

Import transactions are no longer subject to prior transfer authorization from the Bank of Algeria under the 2007 regulations, which govern services listed in Instruction No. 02-07 of May 31, 2007.

However, excluding services classified as current transactions, the operator, through their commercial bank, must obtain prior approval from the Bank of Algeria before domiciling the service contract.

6. Export regime

The conditions governing the domiciliation of non-hydrocarbon exports are regulated by Bank of Algeria Regulation No. 07-01 of February 3, 2007, as amended and supplemented by Regulation No. 2021-01 of March 28, 2021.

Exports of goods on a firm sale or consignment basis, as well as exports of services to foreign destinations, are subject to the prior domiciliation requirement. However, digital service exports, services provided by start-ups, and exports of services by non-commercial professionals are exempt from bank domiciliation formalities.

These service providers must submit a declaration to their domiciliary banks, describing their projects, including details such as the unit price and the date of online availability.

For such transactions, any payment received in exchange for exported services must be repatriated to a bank in Algeria. The received payment is credited to the exporter's foreign currency account (whether commercial or non-commercial professional) and must be used primarily and exclusively for business purposes. However, revenue from exports arising from projects that were not previously declared to the domiciliary bank will be received in Algerian dinars.

The domiciliation procedure consists of the exporter selecting, before carrying out the export, a bank accredited as an authorized intermediary, through which they undertake to perform all banking operations and formalities required by applicable regulations.

At the time of an export transaction, the authorized intermediary bank will process the domiciliation of export contracts for goods and services through its branches.

Additionally, the exporter must open a domiciliation file by submitting to the authorized intermediary bank the original and two copies of the commercial contract or any equiva-

lent document. After the usual verification procedures, a copy stamped with the domiciliation file number and the bank's seal is returned to the exporter.

From now on, the exporter can repatriate the proceeds of the export within a maximum period of 360 days from the date of shipment for goods or the date of execution for services. Indeed, since the enactment of Regulation No. 16-04 of November 17, 2016, which amends and supplements Regulation No. 07-01 of February 3, 2007, on the rules applicable to current transactions with foreign countries and foreign currency accounts, the repatriation period for export proceeds has been extended to 360 days, instead of the previous 180-day limit, as the maximum period an exporter may grant to a non-resident client. The payment deadline must be explicitly stated in the commercial contract.

In any case, the repatriation of export proceeds must take place on the date of payment.

Subject to the foregoing, in accordance with the provisions of this regulation, an export transaction must be backed, in advance, by export credit insurance obtained from the competent national body when the payment period granted by the exporter to the non-resident client ranges between 180 days and up to or exceeding 360 days.

In this scenario, the exporter may be eligible for advances in Algerian dinars on export proceeds from the commercial bank.

Finally, an instruction from the Bank of Algeria will specify the conditions applicable to exports of durable consumer goods or equipment whose payment period exceeds 360 days.

The repatriation obligation applies to the invoiced amount as well as any contractual ancillary fees, when such fees are not incorporated into the sale price. The amount subject to repatriation also includes any contractual indemnities or penalties.

Once export proceeds—excluding hydrocarbons and mining products—are repatriated, the bank credits the exporter's foreign currency account(s) in accordance with the modalities established by the Bank of Algeria's instructions. However, proceeds from non-domiciled exports and those repatriated beyond the regulatory deadlines will be credited in Algerian dinars.

Export transactions may, under certain conditions, qualify for specific tax treatment.

CHAPTER 7

Public procurement regulations

1. General presentation

This chapter aims to analyze the legal framework governing public procurement in Algeria. This involves, first and foremost, a retrospective look at the previous regulations that remain valid in specific circumstances while highlighting the recent promulgation.

To undertake a meaningful exploration of this regulatory sphere, it is necessary to examine the previously established foundations, which persist and remain applicable in certain situations. These principles, deeply rooted in legislative history, continue to regulate economic exchanges in Algeria's public procurement sector. Indeed, the persistence of this older regulatory framework should not be overlooked, as it acts like a watermark, weaving a pattern that intertwines with the current regulatory developments.

By closely analyzing these two regulatory layers, it is possible to grasp the transition from one legal framework to another. The coexistence of the former regulations—still applicable in specific cases—and the recent provisions introduced by the latest promulgation paints a complex picture.

- **Presidential Decree No. 15-247**

Public procurement in Algeria is currently governed by Presidential Decree No. 15-247 of September 16, 2015, which regulates public procurement and public service delegations (Public Procurement Code). This decree repealed the provisions of Presidential Decree No. 10-236 of October 7, 2010, as amended and supplemented.

It is important to note that the implementing texts listed below, issued under Presidential Decree No. 15-247, will remain in effect until new implementing texts stemming from the latest promulgation are published:

- Order of December 19, 2015, establishing the models for the declaration of integrity, the declaration of candidacy, the declaration to be signed, the letter of submission, and the declaration of subcontractors (Official Journal No. 17 of March 16, 2016).
- Order of December 19, 2015, establishing the procedures for registering and removing economic operators from the list of those prohibited from participating in public procurement (Official Journal No. 17 of March 16, 2016).
- Order of December 19, 2015, setting out the procedures for excluding participation in public procurement (Official Journal No. 17 of March 16, 2016).
- Interministerial Order of April 16, 2016, establishing the list of documents constituting the qualification and professional classification file for companies, business groups, and enterprise consortia involved in public procurement, as amended and supplemented.
- Executive Decree No. 19-197 of July 10, 2019, amending and supplementing Executive Decree No. 14-320 of November 20, 2014, on project management and delegated project management (Official Journal No. 45 of July 17, 2019).

To ensure the efficiency of public procurement and the proper use of public funds, public procurement procedures adhere to the principles of free access to public contracts, equal treatment of candidates, and transparency in procedures.

2. Definition and scope of public procurement

2.1. Definition elements

Public procurement refers to written contracts concluded for a fee by the public buyer, referred to as the "contracting authority," with one or more economic operators, referred to as "contracting partners," to meet the needs of the contracting authority in terms of works, supplies, services, and studies, under the conditions provided by this law and the applicable legislation and regulations. [69]

These contracts are concluded before any commencement of execution of services and only become final after their definitive approval by the competent authority (the head of the public institution, the Minister, the Wali, the President of the APC, or the Director General/Director of the public institution, or by delegation of these authorities).

The definition of each type of contract has been revised in the Public Procurement Code in a more "legal" and "practical" manner:

- **Public works contracts** involve the construction of a structure or building and civil engineering works by a contractor, in compliance with the needs determined by the contracting authority, acting as the project owner. Concretely, this includes construction, renovation, maintenance, rehabilitation, development, restoration, repair, reinforcement, or demolition of a structure or part of a structure, including the associated equipment necessary for its operation.

  Notably, Executive Decree No. 21-219 of May 20, 2021, which approves the General Administrative Clauses applicable to public works contracts, has made it mandatory to reference the provisions of said clauses in the execution of public works contracts.
- **Public supply contracts** involve the acquisition, rental, or lease-purchase (with or without a purchase option) by the contracting authority of equipment or products—

69 Article 2, Law No. 23-12 on Public Procurement.

regardless of their form—intended to meet the needs related to its activities, from a supplier. These contracts may cover equipment, complete production facilities, or second-hand goods, provided they come with a guarantee or have been refurbished under warranty.

– **Public study contracts** involve intellectual services. A detailed definition of project management in the realization of a structure, urban project, or landscape project is provided in Article 29.
– **Public service contracts**, concluded with a service provider, involve the execution of service-related tasks. This is a residual category of contracts.

If a contract covers multiple types of services, a comprehensive contract may be concluded in the following cases:

– The contracting authority may exceptionally use the "study and execution" procedure when technical reasons make it essential to associate the contractor with the design studies of the project.
– When technical or economic reasons justify it, the contracting authority may opt for a contract covering "study, execution, and operation or maintenance" or "execution and operation or maintenance."

The list of projects eligible for a comprehensive contract is determined by a decision of the contracting authority, following the opinion of the competent procurement committee. Their application procedures will be specified as necessary by an order of the Minister in charge of finance.

2.2. Scope of application

• Positive definition of the scope of application

The provisions of the Code apply exclusively when the contracting services are:

– The State;
– Local authorities;
– Public establishments of an administrative nature;
– Public establishments subject to the legislation governing commercial activities when they are responsible for carrying out an operation financed, in whole or in part, through temporary or permanent contributions from the State or local authorities. If there is no such financing from the State or local authorities, these establishments are only required to adapt their procedures and control mechanisms to the Public Procurement Code and have them approved by their competent governing bodies.

It is explicitly stated that public economic enterprises are not subject to the Code. However, these enterprises must nonetheless have their governing bodies adopt procedures that comply with the three general principles governing public procurement (freedom of access, equal treatment, and transparency).

This obligation applies to any entity not subject to public accounting and the Public Procurement Code but using public funds.

As a reminder, public economic enterprises are defined in Article 2 of Ordinance No. 01-04 [70] as "commercial companies in which the State or any other public legal entity directly or indirectly holds the majority of the share capital."

70 Ordinance No. 01-04 of August 20, 2001, as amended and supplemented, relating to the organization, management, and privatization of public economic enterprises.

- **Negative definition of the scope of application**

The following contracts are not subject to the Public Procurement Code:

– Contracts concluded between public institutions, public administrations, and public establishments of an administrative nature;
– Contracts concluded with public establishments governed by legislation regulating commercial activities when they engage in an activity not subject to competition;
– Delegated project management contracts. However, contracts concluded by a delegated project manager on behalf of and for the account of the project owner under the delegated project management contract are subject to the Public Procurement Code;
– Contracts for the acquisition or rental of land or real estate;
– Contracts concluded with the Bank of Algeria;
– Contracts concluded under the procedures of international organizations and institutions or under international agreements when required;
– Contracts related to conciliation and arbitration services;
– Contracts concluded with lawyers for assistance and representation services;
– Contracts concluded with a central purchasing body acting on behalf of contracting services.

2.3. Specific procedures

The Public Procurement Code addresses a series of specific procedures (only some of which will be detailed below):

- **Procedures in case of compelling urgency**

  Subject to meeting the conditions of compelling urgency, the relevant authority may authorize, by a reasoned decision, the commencement of execution before the conclusion of the public contract, solely based on an exchange of letters materializing the parties' agreement. Within six months, a regularization contract must be concluded when the thresholds specified below are reached.

- **Adapted procedures**

  Contracts whose amount does not exceed a certain threshold are not subject to the public procurement procedure. These thresholds have been raised in Article 13 as follows:

  – For works or supply contracts, the threshold increases from 8 to 12 million DA.
  – For study and service contracts, the threshold increases from 4 to 6 million DA.

  In such cases, the contracting service establishes internal procedures or opts for one of the procedures provided for in this Code. If the latter option is chosen, the contracting service must follow the entire award process according to the same procedure.

  Orders whose cumulative amounts during the same budget year do not exceed 1 million DA for works or supplies and 500,000 DA for studies or services are not necessarily subject to consultation. Previously, these thresholds were 500,000 DA and 200,000 DA, respectively.

- **Procedures requiring prompt decision-making**

  Import contracts requiring prompt decision-making are subject to a specific procedure outlined in Article 22.

- **Procedures for specific service contracts**

  For transport, hotel, and catering services, as well as legal services, regardless of their amount, the contracting service may use adapted procedures. If the order amount exceeds the aforementioned thresholds, the contract is subject to review by the competent procurement commission.

- **Procedures for utility charges (water, electricity, gas, telephone, and internet)**

  In this case, these are order-based contracts.

3. Key elements of public procurement

3.1. Procurement methods

Contracts are awarded through the call for tenders procedure, which is the general rule, or through direct agreement.

- **Call for tenders**

The call for tenders allows for competition among multiple bidders, with the contract being awarded without negotiation to the most economically advantageous offer. A call for tenders may be declared unsuccessful in the absence of bids, when the bids do not comply with the subject matter and content of the tender document, or when the necessary funding cannot be secured.

The call for tenders can be national and/or international and may take one of the following forms:

– Open call for tenders;
– Open call for tenders with minimum capacity requirements;
– Restricted call for tenders;
– Competition.

- **Direct agreement procedure**

This refers, in broad terms, to the awarding of a contract without a formal competitive bidding process.

– **Regarding the simple direct agreement procedure**, it should be noted that it is now provided for the promotion of production and/or the national production tool, and no longer solely for the promotion of the public national production tool. Article 50 outlines the guidelines to be followed by the contracting authority within this procedure (from determining its needs to selecting the economic operator).
– **The direct agreement procedure after consultation** is now applicable, notably, after a second unsuccessful call for tenders (previously only after one), or when the specific nature of the contract (excluding works contracts) does not require a call for tenders, specifying that this is due to its **subject matter, low level of competition, or confidential nature.**

3.2. Qualification and submission of the offer

Regarding the qualification of candidates or bidders, Article 57 of the Code introduces the previously excluded possibility for any bidder or candidate [71] alone or in a consortium, to rely on the capacities of other companies. To do so, there must be a legal relationship of subcontracting, co-contracting, or statutory affiliation (subsidiary or parent company within the same group) between the participants in the public procurement procedure.

As a reminder, when justified by the interest of the operation, the possibility of bidding as part of a consortium must be provided for in the tender specifications. In this case, bidders must participate in the form of a joint and several liability consortium (which may be imposed if dictated by the nature of the contract) or a joint consortium. Contracting partners acting as a consortium commit jointly or severally to the execution of the project.

The consortium is joint and several when each member is responsible for executing the entire contract. The consortium is joint when each member is responsible for executing the service(s) that may be assigned to them in the contract.

Regarding the offer itself, it must contain a candidacy file, a technical offer, and a financial offer. It should be noted that the financial offer must now include the breakdown of the total lump-sum price (DPGF) and may also require the detailed breakdown of unit prices (SDPU) and the detailed descriptive and estimated bill of quantities (DDED). In this regard, and in accordance with the regulations in force, it is specified that the contracting authority is not required to request the legalization of documents except in specific cases.

It should be noted that the same body is now responsible for the opening and examination of bids, namely the Committee for bid opening and offer evaluation.

Finally, it is essential to highlight Article 73 of the Public Procurement Code, which states that "the contracting authority may, for reasons of public interest, during the entire procurement process, declare the cancellation of the procedure and/or the provisional award of the contract. Bidders cannot claim any compensation if their offers have not been retained or if the procedure and/or the provisional award of the public contract has been canceled."

Article 75 provides for cases of exclusion from participation in public procurement, including failure to comply with the investment obligation set out in Article 84 or operators listed in the national register of fraudsters, who have committed serious violations of tax, customs, and commercial laws and regulations.

3.3. Selection of the contracting partner

Already initiated in the previous decree, there is a clear intent to improve competition in the selection of the contracting partner.

The relevant rules are structured around three fundamental axes:

- The nature of the rules governing the selection of the contracting partner;
- The rules governing the selection of the contracting partner;
- The selection of the partner, initially provisional, gives the right to an appeal before the contracts commission by bidders who believe they have been unduly excluded.

Moreover, the objectivity of this selection is reflected in the obligation imposed on the contracting service to carry it out in two phases:

- The first selection concerns all bidders whose submissions comply with the technical data of the work, supply, service provision, or study subject to the contract to be concluded;

71 Article 39 of Decree No. 10-236 of October 7, 2010, as amended and supplemented.

– The second selection, which becomes final after the exhaustion of appeal procedures, concerns the bidder whose financial offer is the most favorable; except in exceptional cases, this choice is automatic.

The entire Section 7 is now dedicated to aspects related to the "promotion of national production and the national production tool." Beyond the reaffirmation of a series of protective rules, there is an obligation to subcontract locally up to 30% for certain contracts:

- **The "25% rule"**

A 25% preference margin is granted to products of Algerian origin and/or companies under Algerian law, whose capital is majority-owned by resident nationals, for all types of contracts.

If the bidder is a consortium composed of companies under Algerian law (whose capital is majority-owned by resident nationals) and foreign companies, the benefit of this margin is subject to justification of the shares held by the Algerian and foreign companies in terms of tasks to be performed and their amounts.

In this context, foreign contracting partners who have benefited from this preference margin are required to use locally produced goods and services.

- **Obligation to invest in partnership**

The bidding documents for international tenders must include a commitment to invest in partnership for foreign bidders when it concerns projects listed by decision of the authority of the national sovereignty institution, the autonomous national institution, or the relevant minister for their projects and those of the institutions and organizations under their jurisdiction.

Failure by the foreign bidder to honor its partnership investment commitment results in: a formal notice, the application of financial penalties, termination of the contract, and registration of the foreign company that failed to meet its commitment on a list of companies prohibited from bidding on public contracts. A joint order from the Minister in charge of finance and the Minister in charge of investment will be published to specify the application procedures for this commitment.

- **National competition requirement**

When national production or the national production tool is capable of meeting the needs of the contracting service.

- **General obligations of the contracting service**

When issuing a national and/or international call for tenders, the contracting service must:

– Consider, when establishing eligibility conditions and the bid evaluation system, the potential of companies under Algerian law, particularly SMEs, to allow them to participate in public procurement procedures while maintaining optimal conditions of quality, cost, and execution time;

– Favor integration into the national economy and the importance of subcontracted lots or products purchased on the Algerian market;

– Include in the bidding documents a mechanism to ensure training and knowledge transfer related to the contract's purpose;

– Include in the bidding documents, in the case of foreign companies bidding alone, except in duly justified cases, the obligation to subcontract at least 30% of the initial contract amount to companies under Algerian law. This is a notable innovation.

Regardless of the chosen procedure, the contracting service must include in the bidding documents measures that allow the use of imported products only if the equivalent local product is unavailable or does not meet the required technical standards. Furthermore, the contracting service must only allow the use of foreign subcontractors when companies under Algerian law are unable to meet its needs. Additionally, national production is prioritized through craftsmanship and micro-enterprises.

Finally, Section 8 addresses the fight against corruption. Notably, the new regulatory authority for public procurement and public service delegations is developing a code of ethics and conduct. The legislator defines corruption criteria and recalls the obligation for the contracting partner to submit a declaration of integrity. This obligation is thus considered an aggravating factor in the event of corruption or attempted corruption.

4. Execution of public contracts and contractual provisions

- **Mandatory clauses**

The mandatory clauses to be included in public contracts are set out in Article 95 of the Code. It is notably required to include provisions regarding the price revision clause, the addition of clauses related to "the professional integration of persons excluded from the labor market and persons with disabilities," as well as clauses concerning insurance, secrecy, and confidentiality.

- **Pricing**

Articles 96 and following govern the pricing of public contracts. The remuneration of the contracting partner is determined according to the following methods:

– Lump-sum pricing;
– Unit price schedule;
– Controlled expenditure;
– Mixed pricing.

The price may be fixed or subject to revision. In this regard, the Code introduces an innovative provision allowing for the temporary determination of the price [72] in the following cases:

– Public contracts for project management of works, concluded based on a target cost;
– Public contracts awarded through direct agreement in cases of imperative urgency;
– Additional services within the framework of a works contract.

In the case of complex public contracts, concluded based on performance objectives, the contracting authority may incorporate an incentive clause into the contract to encourage the contracting partner to achieve a better quality/price/time ratio.

Public contracts whose amounts are below the thresholds set for the application of procurement procedures (Article 13, paragraph 1) or whose duration is less than three months cannot be subject to price adjustment or revision. The Public Procurement Code excludes contracts awarded by direct agreement from price adjustments.

The price indices considered in price revision formulas are detailed in Article 103, which specifies that index groups combining multiple indices may be used in works contracts and that price revision may be deferred pending the publication of the indices.

72 Article 97 of the New Public Procurement Code.

- **Payment terms**

According to regulations, the financial settlement of the contract is made through advance payments and/or installments and final payments.

Lump-sum advances and advances on supplies are recovered through deductions made by the contracting authority on the amounts paid as installments or final payments. The novelty lies in the fact that the repayment of said advances by deduction must start no later than when the amount of payments reaches 35% of the initial contract amount. As was already customary, the repayment of these advances must be completed no later than when the payments reach 80% of the initial contract amount. It should be noted that partial repayment of advances may now result in an equivalent partial release of the advance repayment guarantee.

The deadline for processing installment payments and final payments cannot exceed 30 days from the receipt of the invoice or payment request.

Additionally, as a counterbalance to the late penalties imposed on the contracting partner, they are entitled to receive late payment interest from the contracting authority. These interest payments are calculated automatically and without additional formalities as soon as a delay in processing payments occurs. These interest payments are now calculated at the Bank of Algeria's benchmark interest rate, increased by one percentage point, from the day following the deadline's expiration until the 15th day after the payment is processed.

It is also important to note that subcontractors may now be paid directly by the contracting authority.

- **Guarantees**

A bid bond exceeding 1% of the offer amount is required for public works contracts where the estimated administrative needs exceed 1 billion DA and for supply contracts exceeding 300 million DA. The bid bond for a foreign company must be issued by an Algerian bank, backed by a counter-guarantee from a top-tier foreign bank.

A performance bond must also be provided by the contracting partner. However, certain study contracts (excluding project management for works) and service contracts are exempt from this requirement when the contracting authority can verify proper execution before payment or in cases of direct contracts with public entities.

The performance bond amount is set between 5% and 10% of the contract value, depending on the nature and scope of the work. For contracts that do not meet the aforementioned thresholds, the performance bond is set between 1% and 5% of the contract value.

For public works contracts that do not fall under the jurisdiction of the National Commission for Public Works Contracts or sectoral contract commissions, performance retentions of 5% of the work situation amount may replace the performance bond. The accumulated retentions are converted into a guarantee retention upon provisional acceptance of the contract.

- **Amendments**

The contracting authority may issue amendments to the contract, which serve as an ancillary contractual document.

An amendment may increase or decrease services and/or modify one or more contract clauses. However, it cannot fundamentally alter the economic balance of the contract nor change its purpose or scope.

The Public Procurement Code now provides clearer conditions for issuing amendments. Financial impacts in foreign currency, except those resulting from changes in service

quantities, must be documented in an administrative certificate issued by the contracting authority and submitted to the Bank of Algeria and the commercial bank.

Amendments may cover "additional" services (previously called "new" services) as long as they fall within the overall scope of the contract.

If the quantities specified in a public works contract are insufficient to fulfill its purpose (except in cases where the contractor is responsible), the contracting authority may issue service orders for additional work while awaiting formalization of an amendment. For additional services with new prices, service orders may specify provisional prices.

When the total cost of services covered by an amendment reaches 10% of the initial contract amount, an amendment must be drafted and submitted to the relevant contract commission. Services not covered by service orders cannot be regularized through amendments.

An amendment to a service or supply contract that has been executed but not yet finally accepted may be issued to cover expenses necessary for the continuity of an already established public service, subject to the decision of the competent authority. The circumstances necessitating the extension must be unforeseeable and not due to delaying tactics by the contracting authority. Moreover, the amendment period cannot exceed three months, and the increased quantities cannot exceed 10% of the initial contract.

If the value of an amendment covering an increase in services, or the cumulative value of multiple amendments (excluding unforeseen technical contingencies), exceeds 15% of the initial contract amount for supply, study, and service contracts, or 20% for public works contracts, the contracting authority must justify to the relevant contract commission that the initial competitive conditions remain valid and that launching a new procurement process would not achieve the project under optimal conditions of time and cost.

- **Subcontracting**

The contracting partner may subcontract part of the contract through a subcontracting agreement. It is now specified that:

– Subcontracting may not exceed 40% of the total contract value.
– Routine supply contracts are excluded from subcontracting.

The subcontractor involved in executing a public contract must inform the contracting authority of their presence. If an undeclared subcontractor is discovered, the contracting authority will issue a formal notice to the contracting partner to rectify the situation within eight days, failing which coercive measures will be taken.

Article 143 outlines the permitted cases for subcontracting as follows:

– The main scope of subcontracting, in reference to specific essential tasks that must be performed by the contracting partner, should be explicitly defined in the tender document and, where possible, in the contract. The subcontractor may be declared in the bid submission or during contract execution. The declaration of a subcontractor during contract execution and the acceptance of their payment terms must comply with a model set by an order from the Minister of Finance.
– The selection of the subcontractor by the contracting partner and their payment terms must be formally and previously approved in writing by the contracting authority after verifying the subcontractor's professional, technical, and financial capacities.

  A subcontractor approved under these conditions is paid directly for the services specified in the contract that they execute, following the procedures set by an order from the Minister of Finance.

– A copy of the subcontracting agreement must be provided by the contracting partner to the contracting authority.
– The transferable portion of the contract corresponding to services subcontracted to Algerian companies must be identified in the bidder's offer.

Finally, Article 144 specifies the mandatory elements that must be included in subcontracting agreements. It is also worth mentioning that Section [73] of the Public Procurement Code is dedicated to contract acceptance.

5. Poor performance of public contracts

- **Penalties**

The rates and terms of application of these penalties are specified, where applicable, in the public contract in accordance with the specifications.

The exemption from payment falls under the responsibility of the contracting authority and may be granted when the delay is not attributable to the co-contractor or in cases of force majeure (such as orders to suspend and resume services in these situations). In any event, such an exemption shall result in the issuance of an administrative certificate.

- **Termination**

The following cases of termination are provided for:

– Termination for breach by the contractual partner;
– Unilateral termination by the contracting authority for reasons of public interest, even in the absence of any fault by the contractual partner (Article 150);
– Contractual termination under the expressly stipulated conditions (Article 151).

It is further specified that the contracting authority cannot be prevented from terminating the public contract when enforcing contractual guarantee clauses or pursuing remedies for damages suffered due to the fault of its co-contractor. Additionally, any additional costs resulting from the new contract shall be borne by the latter.

- **Dispute resolution**

The Public Procurement Code favors the amicable settlement of disputes that may arise from the awarding and execution of public contracts.

If this procedure fails, the parties may now submit disputes arising from the execution of public contracts concluded with national partners to the competent Amicable Dispute Resolution Committee (Articles 153 et seq.), which issues a reasoned opinion based on facts and law. The legal effect of these opinions is not specified at this stage.

Regarding disputes arising from the execution of public contracts concluded with foreign partners, recourse to an international arbitration body is now subject, upon the proposal of the relevant minister, to prior approval issued during a Government meeting (Article 153). However, it should be noted that such disputes fall within the jurisdiction of the Public Procurement and Public Service Delegations Regulatory Authority (Article 213).

73 Section 9, Article 148.

6. Public procurement control

Without delving into the details of the types of control, it is important to note the establishment of the following control bodies:

- **Tender opening and bid evaluation committee**

It should be noted that, from now on, the same body is responsible for both the opening and the examination of bids, namely the Tender Opening and Bid Evaluation Committee.

- **Public procurement and public service delegations regulatory authority** [74]

This authority is established under the Ministry of Finance and includes within it a Public Procurement Observatory and a National Dispute Resolution Body.

The authority is tasked with:

– Developing and overseeing the implementation of regulations concerning public procurement and public service delegations. In this capacity, it issues opinions intended for contracting authorities, control bodies, procurement committees, amicable dispute resolution committees, and economic operators;
– To inform, disseminate, and popularize all documents and information within its area of competence;
– To initiate training programs and promote training in its field of competence;
– To conduct an annual economic census of public procurement;
– To analyze data related to the economic and technical aspects of public procurement and make recommendations to the Government;
– To serve as a platform for consultation within the framework of the Public Procurement Observatory;
– To audit or commission audits of public procurement and public service delegation procedures, as well as their execution, upon request from any competent authority;
– To rule on disputes arising from the execution of public contracts concluded with foreign contractual partners;
– To manage and operate the public procurement information system;
– To maintain cooperative relations with foreign and international institutions operating within its field of competence.

7. Public service delegations

Under the current regulations, an entire Title (Title 2) is now dedicated to public service delegations. Without delving into the details of these measures, it is essential to highlight the main principles.

A legal entity under public law responsible for a public service may, unless otherwise provided by law, entrust its management to a delegatee.

The delegatee's remuneration is primarily ensured through the operation of the public service. The delegating authority, acting on behalf of the public legal entity, entrusts the management of the public service through a convention.

74 Article 213 of the Public Procurement Code.

In this regard, the delegating authority may assign the delegatee the construction of infrastructure or the acquisition of assets necessary for the operation of the public service. At the expiration of the public service delegation agreement, all investments and assets related to the public service become the property of the concerned public legal entity.

Depending on the level of delegation, the risk borne by the delegatee, and the control exercised by the delegating authority, the public service delegation may take the following forms:

- Concession;
- Lease (Affermage);
- Interested management (Régie intéressée);
- Management contract (Gérance);
- Or any other form, under conditions and modalities defined by regulation.

The three fundamental principles governing public procurement shall apply to public service delegations.

Lastly, it is worth noting that Title 3 is dedicated to the training of civil servants and public officials.

8. Law No. 23-12 of August 5, 2023, establishing general rules on public procurement

The general principles and fundamental rules of public procurement are now enshrined in a legislative text, providing greater stability. Law No. 23-12 (hereinafter referred to as the "Law") lays down the basic rules governing the public procurement sector. Pending the relevant implementing regulations, all provisions not contrary to Law No. 23-12 remain applicable.

8.1. Key changes introduced by Law No. 23-12

- **Definitional reconfigurations**

- Public procurement contracts are "written contracts concluded for a consideration by the public buyer, referred to as the 'contracting service,' with one or more economic operators, referred to as 'contracting partners,' to meet the contracting service's needs in terms of works, supplies, services, and studies, under the conditions set out in this Law and in the applicable legislation and regulations."
- Public service contracts: "A public contract is considered a service contract when its object does not involve works, supplies, or studies."

- **Conceptual reconfigurations**

Under the new Law, the use of global contracts is permitted when technical requirements necessitate specialized expertise and closely integrated execution processes, requiring the involvement of both the designer and the contractor. These requirements must be linked to the functionality and technical implementation of the project.

8.2. Scope of application

- **Inclusive concept**

According to Law No. 23-12, the determination of the scope of application is based on the origin of the funds used for the contract.

- **Exclusive concept**

The provisions of Law No. 23-12 do not apply to contracts concluded:

- Between two or more public institutions and/or public administrations;
- Between two or more public establishments governed by public law;
- Between public institutions or administrations and public establishments governed by public law;
- With the public establishments referred to in the last indent of Article 9 of this Law, when they operate in a non-competitive sector;
- With a public establishment for the delegation of project management;
- For delegated public service management and public-private partnerships;
- For the acquisition or rental of land or real estate;
- For services provided by diplomatic and consular representations abroad and, where applicable, public enterprises governed by public law established abroad;
- With the Bank of Algeria;
- Under the procedures of international organizations and institutions or in accordance with international agreements, when required;
- For conciliation and arbitration services;
- With lawyers for legal assistance and representation;
- With a purchasing center subject to the provisions of this Law, acting on behalf of contracting services;
- For financial transactions carried out on the international financial market and related services.

8.3. Public procurement procedures

- **Negotiated procedure**

The negotiated procedure refers to the awarding of a public contract without a formal competitive bidding process. It can take the form of either direct negotiation or negotiation after consultation, with the latter being conducted through any appropriate written means. The negotiated procedure allows the contracting service to negotiate prices and contract execution terms.

Concerning direct negotiated procedure this option is strictly limited to specific cases, such as:

- Promoting certified start-ups and service providers in digital and innovation, provided that the solutions offered are unique and innovative;
- Situations where only one economic operator can carry out the required operations, such as cases of urgent necessity involving threats to an investment, the contracting service's assets, or public order, as well as emergency supply needs essential to the population.

Negotiated procedure after consultation: This approach can be used in cases involving state sovereignty or confidentiality.

- **Promotion of national production and domestic industry**

In addition to reaffirming protective measures, the Law requires foreign companies to subcontract at least 30% of the initial contract value to Algerian-registered companies. Additionally, a 25% preference margin is granted to products of Algerian origin.

Furthermore, Law No. 23-12 grants exclusive rights to a specified portion of contracts for small and very small businesses, certified start-ups, and companies employing a minimum percentage of workers with physical disabilities, provided they meet the contract requirements.

- **Subcontracting**

The previous ban on subcontracting in routine supply contracts has been removed under Law No. 23-12.

- **Public procurement control**

— **Establishment of a national public procurement council**

To ensure stricter oversight of the compliance and efficiency of public procurement, the Public Procurement and Public Service Delegations Regulatory Authority, cited in Article 213 of Decree No. 15-247, is strengthened by the creation of a National Public Procurement Council (Article 104, Law No. 23-12). This council will be responsible for:

– Consulting, assisting, studying, and examining any matters related to public procurement submitted by the Minister of Finance;
– Proposing, in coordination with the relevant services, and providing opinions, where applicable, on any draft legislative or regulatory text concerning public procurement and other public contracts;
– Suggesting, in coordination with the relevant services, generalizable measures, issuing instructions, and defining best practices to improve and streamline public procurement management;
– Proposing, in coordination with the relevant services, various measures, particularly legal ones, to promote the principles set out in Article 5 of this law and to ensure better utilization of national production and service capacities;
– Providing an opinion, prior to their adoption, on general administrative clauses, common technical specifications, and standard contract models for works, supplies, studies, and services;
– Giving an opinion on disputes arising from the execution of public procurement contracts concluded with foreign contracting partners;
– Ruling on the regularity of procurement procedures for major national contracts, including reviewing tender documents, public contracts, amendments, and appeals, according to the established thresholds;
– Conducting, in coordination with relevant services, an annual economic assessment of public procurement;
– Analyzing, in collaboration with the relevant services, economic and technical data related to public procurement and making recommendations to the Government.

Law No. 23-10 states that tender documents reviewed before its entry into force remain valid until the completion of the contract award process. However, if the contracting authority wishes to adjust them according to the new law, they must be submitted to the competent commission.

As a result, existing commissions will continue reviewing cases until the new commissions are established.

It should be noted that public contracts initiated before this law remain governed by Presidential Decree No. 15-247. Additionally, already notified contracts will continue to be executed under the same decree.

CHAPTER 8

Contract law & obligations

1. General principles

Pursuant to Article 54 of the Civil Code, "a contract is an agreement whereby one or more persons undertake, towards one or more others, to give, to do, or not to do something."

Obligations law, rooted in civil law traditions, is governed by Book II of the Civil Code, "On Obligations and Contracts." Since its enactment in 1975, the Algerian Civil Code has undergone several reforms to align with societal evolution and economic development, particularly with the transition to a market economy. The most recent reform was introduced by Law No. 07-05 of May 13, 2007, concerning lease agreements.

Under the general principles of contract law, it is essential to highlight contractual freedom, the binding force of contracts, and good faith as fundamental pillars.

2. Classifications of contracts

It is possible to identify numerous classifications of contracts. With regard to their mode of formation, the first classification divides them into consensual, solemn, and real contracts. Consensual contracts are formed by the mere exchange of consents, without the need to resort to any formalities: they are, in principle, the rule pursuant to the principle of freedom of will and consensualism (notably Article 59 of the Civil Code).

Conversely, solemn contracts are deemed valid only if they have been authenticated by a competent authority, generally a notary. Pursuant to Article 324 bis 3 of the Civil Code: "Solemn acts, under penalty of nullity, must be received by the public officer in the presence of two instrumental witnesses." Thus, for example, the contract for the incorporation of a company is considered a solemn or formal act (Article 418 of the Civil Code).

It is also essential to distinguish between contracts of adhesion and negotiated contracts. The contract of adhesion is specifically defined in Article 70 of the Civil Code as follows: "The acceptance of a contract of adhesion results from the adherence of one party to a regulatory project established by the other without allowing for discussion." This type of contract implies the prohibition of leonine clauses. The negotiated contract, on the other hand, is one whose terms are freely negotiated between the parties.

The Algerian Civil Code also distinguishes between unilateral contracts and synallagmatic contracts. A contract is unilateral when one or more persons are bound towards one or more others, without any reciprocal obligation from the latter (Article 56 of the Civil Code). A contract is synallagmatic or bilateral when both parties undertake reciprocal obligations towards each other (Article 55 of the Civil Code).

Furthermore, it is important to highlight the classification established by Article 58, which differentiates between gratuitous contracts and onerous contracts. In the case of onerous contracts, a further subdivision is made between commutative contracts and aleatory contracts (Article 57 of the Civil Code). A contract is commutative when each party knows the extent of their obligation, which is considered equivalent to what they receive or what is done for them. A contract is aleatory when the equivalent consists of the chance of gain or loss for each party, depending on an uncertain event.

Algerian law also recognizes the distinction between private law contracts and administrative contracts. The former is based on the principle of strict equality between the parties, who are private legal persons. The latter is concluded either between two public persons or between a public person and a private person. The applicable law is administrative law, and any disputes arising from such contracts fall under the jurisdiction of administrative courts.

When the administration enters into a contract with a private person, it has the ability to enforce extraordinary clauses that deviate from ordinary contract law, reflecting its dominance over private individuals. A concession, for example, is an administrative contract.

Finally, other classifications may also be relevant, such as instantaneous contracts vs. contracts with successive performance, named contracts (regulated under special contract law) vs. unnamed contracts, etc.

3. Formation of the contract

Regarding the formation of a contract, it is naturally subject to both substantive and formal conditions. The substantive conditions—consent, capacity to contract, lawful object, and lawful cause—and the formal conditions—the requirement of a written document for authentic acts or private signed agreements—are well-established principles in civil law traditions.

Written evidence constitutes the most indisputable means of proof. Law No. 05-10 of June 20, 2005, which amends the Civil Code, provides that: "A written document in electronic form is admissible as evidence in the same way as a paper-based document, provided that the identity of the person from whom it originates can be duly verified and that it is created and preserved under conditions ensuring its integrity" (Article 323 ter of the Civil Code).

The use of witness testimony as a means of proof is rare, though it is recognized by the Civil Code. According to Article 333, paragraph 1, of the Civil Code: "The proof of a legal act or the proof of the extinction of an obligation cannot be established by witness testimony if its value exceeds 100,000 DA or is undetermined."

4. Effects of the contract

Regarding the effects of a contract, two fundamental principles must be highlighted: the binding force of contracts and the principle of privity of contract.

The principle of binding force asserts that a properly formed contract must be executed and binds the parties as stipulated in Articles 106 and 107 of the Civil Code. Indeed, Article 106 states that: "The contract has the force of law between the parties," which establishes the legal obligation to perform the contract. The parties must fulfill their obligations strictly while adhering to the principle of good faith. The contracting party is bound not only by the terms explicitly stated in the contract and by the law but also by what "custom and equity consider as a necessary consequence of the contract, given the nature of the obligation" (Article 107, paragraph 2).

Although a contract must be executed in accordance with its terms, revision is not excluded. Notably, the Algerian Civil Code, in Article 107, paragraph 3, and Article 561 (concerning service contracts), provides for judicial revision of the contract:

"When, due to exceptional, unforeseeable, and widespread events, the execution of a contractual obligation, while not becoming impossible, becomes excessively burdensome to the extent that it threatens the debtor with an exorbitant loss, the judge may, depending on the circumstances and after considering the interests of the parties, reduce the excessively burdensome obligation to a reasonable extent. Any contrary agreement is void."

The principle of contractual adaptation is essential in business practice, particularly in international commercial relations, where preserving the future of contractual relationships is crucial. In this context, the judge may reasonably reduce an excessively burdensome obligation and restore contractual balance, considering the interests of all parties involved.

The principle of privity of contract means that, in principle, a contract does not affect third parties. However, Article 113 of the Civil Code states that while a contract does not impose obligations on third parties, it may create rights in their favor.

5. Non-performance of the contract

In case of non-performance, partial performance, or performance that does not comply with contractual specifications, several alternatives are available to the co-contracting party:

- Synallagmatic contracts, the exception of non-performance provides a temporary solution by allowing a party to refrain from fulfilling its own obligations if the other party fails to perform theirs;
- Specific performance: After formally notifying the debtor, the co-contracting party may demand the enforcement of the contract either by the debtor or by a third party at the debtor's expense;
- Contract termination: Termination may occur automatically if a termination clause is included, or otherwise through a judicial termination action. In the event of termination, the parties are restored to their previous state (restitutions);
- Compulsory performance by equivalent (contractual liability).

It should be noted that damages may always be added.

– **The exception of non-performance:** This refers to a situation where one party refuses to fulfill its obligation on the grounds that the other party has not fulfilled theirs. Article 123 of the Civil Code states that "in synallagmatic contracts, if the corresponding obligations are due, each contracting party may refuse to perform their obligation if the other does not perform theirs." However, the exceptio non adimpleti contractus cannot be applied without prior conditions.

  In particular, there must be a perfect congruence between the contractual obligations owed by the debtor and the creditor of the obligation. However, it does not matter whether the performance is substantial or marginal, just as it is irrelevant whether the exception of non-performance is preceded by a formal notice.

  Nevertheless, the effects of the exception of non-performance are not definitive. They are temporary, meaning that contractual obligations are merely suspended.

– **Specific performance:** In the event of contract non-performance, the principle remains specific performance (Art. 119). Article 164 of the Civil Code states that "the debtor is compelled, when formally notified, to perform their obligation in kind, if such performance is possible." Additionally, Article 170 of the Civil Code allows the creditor to obtain judicial authorization to have the obligation performed at the debtor's expense, if such performance is possible.

– **Contract termination:** The creditor may request the termination of the contract. This is an act with potentially significant consequences, as it retroactively nullifies all effects produced since the contract was concluded.

  In the case of a termination clause: Pursuant to Article 120 of the Civil Code, "The parties may agree that, in the event of non-performance of the contractual obligations, the contract shall be automatically terminated once the conditions specified in the clause are met, without the court being able to prevent or delay the termination of the contract." However, the creditor must still issue a formal notice to the debtor.

– **Judicial termination:** Article 119 of the Civil Code states that in synallagmatic contracts, when one party fails to fulfill its obligation, the other party may, after formally notifying the debtor, request the termination of the contract. The judge is responsible for ruling on the matter, either by granting the debtor additional time or by deciding whether or not to terminate the contract. Article 119, paragraph 3, specifies that the judge may reject the termination request if the breach of obligation is insignificant compared to the overall promised performance. Once termination is granted, the contractual bond is severed retroactively, implying restitution.

– **Applicable law:** According to Article 18 of the Civil Code: "Contractual obligations are governed by the law of autonomy as long as it has a real connection with the contracting parties or the contract. Otherwise, the applicable law shall be that of the common domicile or common nationality. If none apply, the law of the place where the contract was concluded shall be applicable."

  Obligations law also recognizes the classical distinction between domestic and international contracts. The issue of applicable law and competent jurisdictions for international contracts is therefore crucial. Notably, such contracts may be subject to a law other than Algerian law, and the competent jurisdiction, as per the parties' choice, may be either Algerian courts or foreign courts. Furthermore, an arbitration clause may serve the purpose of submitting any disputes to national or international arbitration.

6. Contractual liability

If the conditions for implementing contractual liability are met, it must apply to the exclusion of tort liability. The enforcement of liability is subject to the existence of a valid contract, the non-performance of an obligation stipulated or assigned under the contract, damage, and a causal link.

The law requires the creditor to issue a formal notice before taking legal action. This notice serves as a warning to the debtor, compelling them to fulfill the contract. The formal notice, carried out under the conditions set out in Article 180 (summons or equivalent act, postal means, or agreement), is only relevant if contract performance is still possible.

Contractual fault lies in the failure to perform an obligation, as defined in Article 119 of the Civil Code. It may be total (failure to deliver the goods) or partial (late delivery).

Regarding damage, it is essential to precisely define the harm suffered, whether material and/or moral. Article 182 bis 1 specifies that "moral damage includes any harm to freedom, honor, or reputation." The causal link requires that the contractual fault be the direct cause of the damages.

Article 182 of the Civil Code governs the rules of compensation. The judge, in any case, determines the compensation amount if it has not been specified in the contract or by law (Article 182, paragraph 1). Compensation generally covers the entire damage, consisting of:

- Actual losses, and Lost profits, provided the damage is related to the contract.
- Indirect damages are not considered, as Article 182 states that compensation must cover damages that are "the normal consequence of non-performance or delay in performance." Additionally, only unavoidable and foreseeable damages are compensable, unless the debtor committed gross negligence or fraud.

There is also contractual compensation, which includes:

- Limitation of liability clauses (penalty clause)
- Exemption clauses, which are rarer.

However, exemption clauses cannot relieve the debtor of liability in cases of fraud or gross negligence (Article 178 of the Civil Code).

For penalty clauses, the compensation amount is set by the parties themselves, without judicial intervention. However, if the amount is excessive compared to the actual damage, or if the main obligation was partially fulfilled, the judge may reduce it (Article 184, paragraph 2 of the Civil Code). This rule is mandatory, meaning that the parties cannot override it contractually.

It is also important to note that if the actual damage exceeds the agreed compensation, the creditor cannot claim a higher amount unless they prove the debtor's fraud or gross negligence (Article 185).

CHAPTER 9

Competition Law

1. Definition and scope of application

Under Article 1 of Ordinance No. 03-03 of July 19, 2003, as amended and supplemented, relating to competition (hereinafter referred to as the "Ordinance"), its purpose is "to establish the conditions for competition in the market, to prevent any anti-competitive practices, and to control economic concentrations in order to stimulate economic efficiency and improve consumer welfare."

According to the aforementioned Ordinance, its scope of application covers the following activities:

- Agricultural production and livestock farming;
- Distribution activities, including those carried out by importers of goods for resale in their original state, agents, cattle traders, and meat wholesalers;
- Production, services, craftsmanship, fishing activities, public legal entities, associations, and professional corporations;
- The provisions of the law also apply to public procurement, from the publication of the call for tenders until the final award of the contract.

In this regard, it should be noted that the implementation of these provisions must not hinder the fulfillment of public service missions or the exercise of their prerogatives.

2. Price freedom

According to Article 4 of the Ordinance, "the prices of goods and services are freely determined by the play of competition in accordance with the rules of free and fair competition" (Article 4, paragraph 1). The principle of price freedom is therefore reaffirmed.

This freedom is exercised in compliance with the provisions of the legislation and regulations in force, as well as with the rules of fairness and transparency, particularly when they relate to the price structure of production, distribution, service provision, and the importation of goods for resale in their original state, the profit margins for the production and distribution of goods or the provision of services, and transparency in commercial practices.

However, this price freedom is subject to limitations, as set out in Article 5 of the Ordinance. Indeed, the margins and prices of goods and services or homogeneous categories of goods and services may be set, approved, or capped by regulatory means. These measures will be taken on the proposal of the relevant sectors, whose main reasons are as follows:

– The stabilization of price levels of essential goods and services or widely consumed products in the event of significant market disruption,
– The fight against speculation in all its forms, as well as the preservation of consumers' purchasing power.

The legislator also provides that these measures may likewise be taken in cases of unjustified and excessive price increases, when they are caused, in particular, by a serious market disruption, a calamity, persistent supply difficulties in a given sector of activity, a specific geographic area, or by situations of natural monopolies. These measures are expressly defined here as temporary measures.

3. Prohibited restrictive practices

3.1. Cartels

Article 6 of the Ordinance prohibits concerted practices and actions, agreements, and explicit or tacit collusions that have the purpose or effect of restricting or distorting the free play of competition within the same market or a market segment, particularly when they:

– Limit market access;
– Restrict or control production, outlets, and investments;
– Allocate markets or sources of supply;
– Obstruct price determination by the free play of the market by artificially inflating or lowering prices;
– Apply unequal conditions to equivalent transactions for commercial partners, thereby placing them at a competitive disadvantage;
– Make contract conclusions conditional upon partners accepting additional services unrelated to the contract's purpose;
– Enable the awarding of a public contract to the benefit of the authors of these restrictive practices.

3.2. Abuse of dominant position

Under Article 7 of the Ordinance, the legislator prohibits any abuse of a dominant or monopolistic position in a market or a market segment that tends to produce the same effects as those outlined in Article 6 concerning cartels (such as restricting market access…).

3.3. Exemptions for restrictive practices

Articles 8 and 9 of the Ordinance introduce the possibility of exemptions for practices that could be considered restrictive of competition.

Article 8 allows for a prior exemption. The Competition Council may, upon request from the concerned companies, determine that there is no need for intervention regarding cartels and dominant positions. In this regard, Decree No. 05-175 of May 12, 2005, estab-

lishes the procedures for obtaining a negative clearance certificate concerning cartels and dominant positions in the market.

Article 9 provides for exemptions if the restrictive practices:

- Result from the application of a legislative text or a regulatory text adopted for its implementation;
- Ensure economic or technical progress;
- Contribute to job creation;
- Enable small and medium-sized enterprises to strengthen their competitive position in the market.

It is important to note that these exemptions apply only if the practices in question have been authorized by the Competition Council.

3.4. Other restrictive practices not covered by exemptions

- **Exclusivity:** According to Article 10 of the Ordinance, any act and/or contract, regardless of its nature and purpose, granting a company exclusivity in conducting an activity that falls within the scope of the Ordinance and has the purpose or effect of restricting or distorting the free play of competition is prohibited.
- **Economic Dependence:** According to Article 11 of the Ordinance, the abusive exploitation by a company of the dependence of another company, client, or supplier, when it is likely to affect the free play of competition, is prohibited. Such abuses may include, among others, unjustified refusal to sell, tied or discriminatory selling, conditional selling requiring the purchase of a minimum quantity, etc.
- **Unjustifiably Low Prices:** Article 12 prohibits, under the same conditions as previously mentioned, the practice of abusively low prices when it affects the free play of competition. These exceptional measures are implemented by decree for a maximum period of six months, after consultation with the Competition Council.

All restrictive practices outlined in section 4 are null and void (unless exempted under the conditions set out in Articles 8 and 9) and are classified as restrictive competition practices.

4. Regulation of concentrations

An economic concentration occurs in three cases:

- Two or more previously independent companies merge;
- One or more natural persons acquire control of all (or parts) of one or more companies;
- The creation of a joint venture performing all the functions of an autonomous economic entity on a lasting basis.

Economic concentrations are not prohibited per se. It is up to the Competition Council, seized by companies engaging in concentrations, to determine whether they harm competition. The parties to the concentration transaction must refrain from taking measures that make the concentration irreversible before obtaining the decision of the Competition Council.

When the concentration threshold exceeds 40% of sales or purchases made in a market, the Competition Council is empowered to examine the issue.

However, certain normally prohibited concentrations may be authorized if:

- They are justified by general interest: the Government may approve the concentration either ex officio or at the request of the concerned parties, even if it has been rejected by the Competition Council;
- They result from the application of a legislative or regulatory provision (Article 21 bis of the ordinance amended by Law No. 08-12);
- They can be justified, particularly when they enhance competitiveness, contribute to job creation, or enable small and medium-sized enterprises to strengthen their competitive position in the market, in which case they are not subject to the 40% threshold.

A note from the Ministry of Commerce dated October 6, 2008, provides further details on certain authorized concentrations: it states that operators engaging in concentrations that bring technical, economic, and social progress to the community and the national economy are "exempted from the obligation to comply with the 40% threshold," provided they obtain authorization from the Competition Council. The objective is to encourage the creation of high-performing companies capable of attracting large-scale investments with high added value and generating wealth and jobs.

Depending on the degree of concentration reached by the operators, the Competition Council may:

- Prescribe measures to mitigate the effects of the concentration on competition;
- Reject the concentration.

In the latter case, and except when the concentration is justified under Article 21 (see above), the Competition Council's decision may be subject to an annulment appeal before the Council of State.

5. Competition council

Title III of Ordinance No. 03-03 (amended and supplemented) as well as Executive Decree No. 11-241 of July 10, 2011 [75], amended and supplemented by Executive Decree No. 15-79, sets out the organization, operation, and powers of the Competition Council.

The Competition Council is an administrative authority, autonomous, placed under the ministry in charge of Commerce, which enjoys legal personality and financial autonomy.

In this respect, the Presidential Decree of January 15, 2013, appointing members to the Competition Council, made it possible to install the Competition Council.

The Competition Council makes decisions, issues proposals, and gives opinions on its own initiative or at the request of the Ministry of Commerce or any interested party. In this context, the Council may take any measure in the form, in particular, of regulations, directives, or circulars. It may call upon any expert or hear any person likely to provide information.

It may also refer matters to the services responsible for economic investigations to request any investigation or expertise for cases within its jurisdiction. The Council is also competent to conduct any investigation, study, or expertise falling within its domain. The Competition Council gives opinions on any question concerning competition that is submitted to it by the Government. Local authorities, economic and financial institutions, businesses, professional and trade unions, as well as consumer associations, are empowered to refer

75 Amended and supplemented by Executive Decree No. 15-79 of March 8, 2015.

matters to it on the same subjects. Furthermore, it gives its opinion on any draft legislative or regulatory text related to competition. It is seized by any natural or legal person who considers themselves harmed by a restrictive practice by means of a request addressed to the president of the Competition Council.

Its main decision-making powers are as follows:

– Address reasoned injunctions to put an end to restrictive practices of competition;
– Impose financial penalties (in case these injunctions remain ineffective);
– Take provisional measures intended to suspend restrictive practices or to prevent imminent harm likely to be caused to businesses whose interests are affected by these practices.

Furthermore, competent courts may request its opinion after an adversarial procedure has taken place before them. The decisions rendered by the Competition Council are notified for execution to the concerned parties by a bailiff.

It should be noted that the Competition Council now has a website accessible at www.conseil-concurence.dz. The official competition bulletins [76], rich in information, can notably be consulted there.

6. Rules applicable to commercial practices

Law No. 04-02 of June 23, 2004, as amended and supplemented by Law No. 10-06 of August 15, 2010, establishes the rules applicable to commercial practices, particularly those concerning transparency and fairness in commercial practices between economic operators and between them and consumers. It also defines offenses and sanctions for violators.

6.1. Scope of application

By analogy with the amended and supplemented ordinance on competition, Law No. 10-06 of August 15, 2010, expands the already broad scope of Law No. 04-02 of June 23, 2004, which sets the rules applicable to commercial practices. It extends to agricultural and livestock production activities, distribution activities carried out by importers of goods for resale as is, agents, livestock traders, and butchers, as well as to artisanal and fishing activities carried out by any economic operator, regardless of its legal nature.

6.2. Commercial practices

• On transparency in commercial practices

Regarding transparency in commercial practices, businesses are responsible for informing consumers about prices, tariffs, and sales conditions. They are also required to issue invoices. A delivery note is accepted as a replacement for an invoice for commercial transactions that are repetitive and regular in nature. A monthly summary invoice must be issued and must reference the relevant delivery notes.

According to the provisions of the law, "any sale of goods or provision of services carried out between economic operators engaging in the activities covered by the law must be

76 Executive Decree No. 11-242 of July 10, 2011, establishing the Official Competition Bulletin and defining its content and procedures for its preparation.

the subject of an invoice or an equivalent document." The seller or service provider is required to issue one of these documents, and the buyer is required to request one.

Regarding consumers, sales of goods or services must be accompanied by a receipt or a document justifying the transaction. However, an invoice or an equivalent document must be issued upon the customer's request.

- **On fairness in commercial practices**

Regarding fairness in commercial practices, Law No. 04-02, as amended and supplemented, lists five prohibited practices:

– Illegal commercial practices;
– Illegal pricing practices;
– Fraudulent commercial practices;
– Unfair commercial practices;
– Abusive contractual practices.

Illegal commercial practices include, among others, cases where the actual cost price is not the unit purchase price stated on the invoice, increased by duties, taxes, and, if applicable, transportation costs. In other words, the seller invoices a price lower than the actual cost price. It is also prohibited to refuse, without legitimate reason, to sell a good or provide a service when that good is offered for sale or the service is available. The following articles specifically prohibit tied sales, discriminatory sales, etc.

Regarding illegal pricing practices, it is notably stipulated that the pricing structures of goods and services, especially those subject to price fixing or margin capping measures in accordance with current legislation and regulations, must be submitted to the relevant authorities before the sale or provision of services.

The following are regulated by decree:

– The conditions and procedures for submitting price structures by the relevant categories of economic operators;
– The standard model of the price structure sheet and the authorities authorized to receive it.

Illegal pricing practices also include selling goods or providing services that do not fall under free pricing but are instead regulated by public authorities. Thus, according to the referenced amended and supplemented law (Article 23 of the aforementioned law):

"Are prohibited, among other things, practices and maneuvers aimed at:

– Making false cost price declarations to influence margins and the prices of goods and services that are fixed or capped;
– Concealing illegal price increases;
– Failing to reflect in sale prices the observed reduction in production, importation, and distribution costs and maintaining price increases for the concerned goods and services;
– Failing to submit the required price structures in accordance with current legislation and regulations;
– Promoting price opacity and speculation in the market;
– Conducting commercial transactions outside legal distribution channels".

Fraudulent commercial practices include making or receiving undisclosed compensations and issuing false or fictitious invoices.

Unfair commercial practices are those carried out in contradiction with honest and fair business practices, through which a company harms the interests of one or more economic operators.

Abusive contractual practices involve imposing conditions, commitments, and obligations on consumers that are entirely contrary to the protective rules to which they are legally entitled and that blatantly undermine the balance of contractual obligations.

6.3. Unfair terms

In order to ensure strict equality between the economic operator and the consumer, precise and binding rules have been enacted by the legislator through Executive Decree No. 06-306 of September 10, 2006, as amended by Executive Decree No. 08-44 of February 23, 2008, issued in application of Article 30 of Law No. 04-02 of June 23, 2004, establishing the rules applicable to commercial practices.

The legislator proceeded in three steps:

- First, it established an exemplary list of the essential elements of contracts;
- Then, it classified certain terms as unfair;
- Finally, it created an institution responsible for tracking unfair terms and eliminating them from commercial relations.

Essential elements of commercial contracts: Every contract concluded between an economic operator and a consumer must necessarily include the following clauses:

- The specificity of the goods and/or services;
- The nature of the goods and/or services;
- Payment terms;
- Delivery conditions;
- Delivery deadlines;
- Penalties for late payment and/or delivery;
- Warranty and compliance terms for goods and/or services;
- Dispute resolution conditions;
- Contract termination procedures.

These clauses must be considered essential and determinant, just like the obligation of information that rests on the economic operator, who is "required to inform consumers, by all useful means, about the general and specific conditions of sale of goods and/or service provision and to allow them sufficient time to review and conclude the contract" (Article 4 of Executive Decree No. 06-306 of September 10, 2006).

Clauses considered unfair: Twelve types of clauses are considered unfair. These are clauses that:

- Restrict the essential elements of the contract mentioned above;
- Reserve the right to unilaterally modify or terminate the contract without compensating the consumer;
- Allow the consumer to terminate the contract in case of force majeure only by paying compensation, thus making contract termination conditional upon the consumer paying compensation to the economic operator;
- Unilaterally exempt the economic operator from liability and do not compensate the consumer in the event of total or partial non-performance or defective execution of its obligations;
- Eliminate any legal recourse available to the consumer;
- Impose new terms on the consumer after the contract has been concluded;

- Retain amounts paid by the consumer when they fail to perform the contract or terminate it, without providing an equivalent measure in favor of the consumer;
- Provide for compensation in case of the consumer's non-performance of obligations, without ensuring an equivalent measure in favor of the consumer (compensation to be paid by the economic operator in case of non-performance);
- Impose unjustified additional obligations on the consumer;
- Require the consumer to reimburse costs and fees for the forced execution of the contract, with-out imposing the same obligation on the economic operator;
- Exempt the economic operator from obligations arising from the exercise of its activities;
- Impose on the consumer obligations that normally fall under the responsibility of the economic operator.

Establishment of a control institution: A control institution has been created under the Ministry of Commerce: The Commission on Unfair Terms. This Commission is chaired by a representative of the Minister in charge of Commerce. It has an advisory role. Its three main missions are as follows:

- Identifying unfair terms in contracts between economic operators and consumers and, on this basis, issuing recommendations to the Ministry of Commerce and the relevant institutions;
- Conducting studies and expert analyses related to the enforcement of consumer contracts;
- Taking any action falling within its scope of competence.

The Commission on Unfair Terms can initiate proceedings on its own or be referred to by any administration, professional association, consumer protection association, or any other institution with a legitimate interest. The Commission makes its opinions and recommendations public. It prepares an annual activity report, which is submitted to the Minister of Commerce and published in full or in excerpts.

It is also worth noting that, in terms of consumer protection, Law No. 09-03 of February 25, 2009, as amended and supplemented, has defined the legal framework applicable to consumer protection and fraud repression.

In application of the aforementioned law, Executive Decree No. 13-378 established the conditions and procedures related to consumer information through labeling. More specifically regarding nutritional labeling, reference should be made to the Interministerial Order of October 19, 2017.

CHAPTER 10

Intellectual property Law

Intellectual property is governed by several legislative and regulatory texts in Algeria. These texts protect industrial property rights and literary and artistic property rights.

1. Industrial property rights

Industrial property rights protect creation in the industrial and technological fields. These creations are varied and cover different domains. They include inventions in the industrial field, industrial designs and models, distinctive signs such as trademarks of manufacture, commerce, or services, and designations of origin.

Information that is not subject to disclosure also benefits from specific protection measures. Furthermore, all protection standards are accompanied by rules against unfair competition.

Algeria is a member of:

- The Paris Convention of 1883 for the protection of industrial property (since 1966);
- The Madrid Agreement on the international registration of trademarks (since 1972);
- The Nice Agreement on the international classification of goods and services for trademark registration (since 1972).
- In 2022, the number of filings was: 8,654 trademarks, 1,118 patents, 378 industrial designs and models [77].

1.1. Patents

Industrial inventions are protected by Ordinance No. 03-07 of July 19, 2003, relating to patents and by Decree No. 05-275, amended and supplemented, of August 2, 2005, setting the modalities for filing and granting patents. Protected inventions refer to new inventions that result from an inventive activity and are capable of industrial application. A protected invention may relate to a product or a process.

77 INAPI website, accessible at: https://e-services.inapi.org/stat

Inventions meeting these criteria result in the granting of a patent, which gives its holder exclusive rights to prohibit:

– The manufacture, use, or sale of their product,
– The use, sale, or importation of the product obtained by their process.

Patentable inventions cover various fields based on the aforementioned criteria, including food products, cosmetic products, pharmaceutical products, and microorganisms.

The protection of a patented invention is granted for a non-renewable period of 20 years from the date of filing the application. Additional certificates issued expire along with the original patent.

Foreign patent holders are protected under Algeria's adherence to international agreements, particularly the Paris Convention for the Protection of Industrial Property of March 20, 1883, as revised, to which Algeria adhered in 1966.

Patents are filed with the Algerian National Institute of Industrial Property (INAPI) and published in the Official Patent Bulletin (Official Industrial Property Bulletin – BOPI).

The Algerian National Institute of Industrial Property is a public industrial and commercial institution under the supervision of the Ministry of Industry. It is governed by Executive Decree No. 98-68 of February 21, 1998.

Pursuant to Executive Decree No. 08-344 of October 26, 2008, amending and supplementing Executive Decree No. 05-275 of August 2, 2005, setting the modalities for filing and granting patents, published in the Official Journal on November 16, 2008 [78], foreign applicants may be represented by a proxy before the relevant institutions to carry out the procedures on their behalf. The procedure will be carried out in accordance with the conditions set by an order of the Minister in charge of industrial property.

1.2. Trademarks

Trademarks in Algeria are governed by Ordinance No. 03-06 of July 19, 2003, and by Executive Decree No. 05-277 of August 2, 2005, which sets the modalities for filing and registering trademarks.

A trademark is a distinctive sign intended to differentiate the products or services of a natural or legal person from those of others.

A trademark may consist of "any signs capable of graphical representation, including words (including personal names), letters, numbers, drawings or images, characteristic shapes of products or their packaging, colors alone or combined, intended and suitable for distinguishing the products or services of one natural or legal person from those of others."

The trademarks may take the form of a sign in one or multiple dimensions. Only visually perceptible signs can constitute a trademark.

In Algeria, no trademark for products or services may be used within the national territory without prior registration or a registration application filed with the competent service of the INAPI.

Priority is granted to the first applicant when the filing is validly carried out.

- **Categories of trademarks**

  Pursuant to Ordinance No. 03-05, several categories of trademarks exist:

78 See below. The same right is granted to applicants regarding the modalities for filing and registering trademarks and for filing and registering layout designs of integrated circuits.

- Product or manufacturing trademark;
- Service trademark;
- Commercial trademark;
- Collective trademarks;
- Certification trademarks;
- Well-known trademarks.

- **Duration of trademark protection**

  A trademark is protected for a period of 10 years, indefinitely renewable.

  Trademarks must be registered with the Algerian National Institute of Industrial Property (INAPI).

  Foreign-domiciled applicants may be [79] represented by an agent to carry out the registration procedure in accordance with the modalities set by an order of the Minister in charge of industrial property.

  To this end, the applicant must:

  - Conduct a prior search before filing the trademark registration application to identify any potential similarities with previously registered trademarks;
  - Activate an online account on the INAPI website;
  - Complete an online trademark registration application form;
  - Select a comprehensive list of products and services based on the "Nice Classification";
  - Provide proof of payment of filing and publication fees.

  Trademark owners may assert their rights and exercise their prerogatives through industrial property agents.

- **Rights conferred by a trademark**

  A validly registered trademark grants its owner property rights over the trademark for a period of 10 years. It is indefinitely renewable. This right allows the owner to grant exploitation rights or transfer the trademark with prior authorization.

- **Sanctions**

  Trademark counterfeiting is punishable by imprisonment ranging from 6 months to 2 years and a fine of 2,500,000 to 10 million DA, or one of these two penalties.

1.3. Industrial designs and models

Industrial designs and models in Algeria are governed by Ordinance No. 66-86 of April 28, 1966. The implementing regulations are established by Decree No. 66-87 of April 28, 1966.

- **Conditions for protection**

  An industrial design is defined as "any arrangement of lines or colors intended to give a special appearance to an industrial or artisanal object, and as a model, any plastic form, whether or not associated with colors and/or an industrial or artisanal object that can serve as a prototype for manufacturing other units and that is distinguished from similar models by its configuration."

79 JO, November 16, 2008, Executive Decree No. 08-346 of October 26, 2008, amending and supplementing Executive Decree No. 05-277 of August 2, 2005, establishing the procedures for filing and registering trademarks.

Only original and new industrial designs and models are protected. Ownership of an industrial design or model belongs to the first applicant.

Foreign nationals may also file an application in Algeria, provided they are represented by an Algerian agent domiciled in Algeria.

- **Filing formalities**

  To be protected, industrial designs or models must be submitted or sent to the INAPI by registered mail with acknowledgment of receipt. The application must include:

  – Four copies of a filing declaration on a form provided by INAPI;
  – Six identical copies of a representation or two specimens of each object or design;
  – A private power of attorney if the applicant is represented by an agent;
  – Proof of payment of the required fees.

- **Duration of protection**

  An industrial design or model validly filed with INAPI is protected for 10 years from the date of filing. This duration is divided into two periods:

  – The first period of 1 year;
  – The second period of 9 years, subject to the payment of a maintenance fee.

- **Sanctions**

  Counterfeiting an industrial design or model is punishable by a fine ranging from 500 to 15,000 DA. In case of repeat offenses, the counterfeiter is subject to imprisonment of 1 to 6 months, along with the confiscation of objects infringing the rights of the owner.

1.4. Layout designs of integrated circuits

Layout designs of integrated circuits in Algeria are governed by Ordinance No. 03-08 of July 19, 2003, and Executive Decree No. 05-276 of August 2, 2005. These layouts are protected when they exhibit originality.

- **Rights granted to holders**

  The holder of a layout design has the right to prohibit third parties from:

  – Reproducing the layout, in whole or in part;
  – Importing, selling, or distributing the layout for commercial purposes.

- **Filing formalities**

  To benefit from protection, the layout design must be filed with INAPI either directly by its author or through a representative [80]. The application must be accompanied by the payment of the required fees. The registration of a layout design is published in the Official Bulletin of Industrial Property.

- **Sanctions**

  Counterfeiting a layout design of integrated circuits is punishable by:
  – Imprisonment of 6 months to 2 years and a fine ranging from 2.5 to 10 million DA;
  – Or one of these two penalties.

  The court may also order the destruction and removal of counterfeit products from commercial circulation, as well as the confiscation of tools used in their manufacture.

80 Executive Decree No. 08-345 of October 26, 2008, amending and supplementing Executive Decree No. 05-276 of August 2, 2005, establishing the procedures for the filing and registration of layout designs of integrated circuits.

1.5. Appellations of origin

Appellations of origin are governed by Ordinance No. 76-65 of July 16, 1976. An appellation of origin is a "geographical name of a country, region, part of a region, locality, or specific place used to designate a product originating from that area, whose quality or characteristics are exclusively or essentially due to the geographical environment, including natural and human factors."

- **Exclusions**

  The following cannot be considered appellations of origin:

  – Generic names of products;
  – Names contrary to public order, morality, or good customs.

- **Entities authorized to create an appellation of origin**

  Appellations of origin are established by the relevant ministerial departments, in coordination with other concerned ministries if necessary, and at the request of:

  – Any legally constituted institution;
  – Any individual or legal entity engaged in production within the designated geographical area.

- **Duration of protection**

  Appellations of origin are protected for 10 years, with unlimited renewal.

- **Registration formalities**

  To be protected, an appellation of origin must be registered with INAPI. The application may be submitted by an Algerian or foreign entity represented by an Algerian agent. The application must include:

  – The name, address, and activity of the applicant;
  – The appellation of origin and its corresponding geographical area;
  – The list of products covered by the appellation;
  – A reference to the legal text related to the appellation, including:
  – The specific characteristics of the products covered;
  – The conditions for using the appellation, including labeling requirements defined in a usage regulation;
  – If applicable, the list of authorized users.

  The registration of an appellation of origin is subject to the payment of a fee.

- **Sanctions**

  The counterfeiting of a designation of origin is punishable by:

  – A fine ranging from 2,000 to 20,000 DA and a prison sentence of 3 months to 3 years;
  – Or one of these penalties.

1.6. Industrial property agents

A decree dated May 12, 2009, established the accreditation procedures for industrial property agents.

The activity of industrial property agents is subject to accreditation. The accreditation is granted by the minister in charge of industrial property. It may be awarded to any natural person who meets the required conditions:

- Hold Algerian nationality. However, foreign nationals whose country grants similar rights to Algerians are not subject to this condition;
- Reside in Algeria;
- Provide proof of professional domicile through a property or rental agreement;
- Hold a university degree and provide evidence of training in industrial property law and/or three years of professional experience in the field.

The agent is authorized to file, on behalf of others (individuals or legal entities), all designs, models, trademarks, designations of origin, patents, and layout designs of integrated circuits. They handle all procedures with the competent service to obtain the rights for their client.

Industrial property agents practicing at the date of publication of the Official Journal are not subject to the provisions of this decree.

2. Literary and artistic property rights

Literary and artistic property rights protect creations in the literary and artistic fields, including computer programs. They are divided into copyright and related or neighboring rights.

Literary and artistic property rights are governed by Ordinance No. 03-05 of July 19, 2003, on copyright and related rights.

A new legislation concerning the status of artists has recently been introduced. Under Presidential Decree No. 23-376 of October 22, 2023, its scope covers, inter cetera, artists, technicians working in the artistic field, and artistic institutions engaged in artistic activities.

Artistic institutions include various entities, such as self-employed entrepreneurs, commercial companies based on their legal structures, public and private institutions, as well as artistic cooperatives, all engaged in artistic activities.

The artistic activities of these institutions notably include:

- The organization or production of artistic performances and cultural events for the public;
- The promotion of arts aimed at children;
- The production, promotion, and dissemination of artistic and literary works.
- The Operation of a Performance Venue, Its Distribution, or an Establishment Open to the Public, Publicly or Privately
- The organization of cultural or artistic exhibitions; and
- The management and development of facilities and installations dedicated to artistic production and operation.

2.1. Copyright

Copyright protects creations in the literary and artistic fields. The following are protected:
- Written or verbal literary works, whether literary, scientific, poetic, etc.;
- Computer programs;
- Original databases;
- Cinematographic and other audiovisual works;
- Dramatic or dramatic-musical works;
- Works of plastic and graphic arts;
- Architectural works, including related plans and models;
- Creations in clothing, fashion, and adornment.

a) Recognized rights

The author of an intellectual work enjoys both moral and economic rights over their creation.

— Moral rights

Four moral rights are recognized for the author:
- The right to disclose their work at a time they deem appropriate;
- The right to the integrity of their work;
- The right to have their name mentioned on their work;
- The right to withdraw their work.

— Economic rights

These are economic rights granted to the author by virtue of their exclusive right to authorize or prohibit the exploitation of their work and to derive financial benefits from it. The recognized rights include:
- The right to reproduce the work on any type of medium;
- The right to communicate the work to the public;
- The right to perform the work;
- The right to rent the work;
- The resale right for authors of plastic art works;
- The right to remuneration;
- The right to translate, adapt, arrange, or otherwise transform the work.

b) Duration of protection

Moral rights are perpetual, inalienable, and transferable to heirs after the author's death.

Economic rights are generally protected during the author's lifetime and for 50 years after their death. This duration applies to all categories of works; however, the starting point of this period varies depending on the category of the work.

c) Exceptions and limitations

There are two exceptions to copyright protection:
- Mandatory translation licenses;
- Mandatory reproduction licenses.

Mandatory translation licenses may be granted for educational purposes in schools and universities when a work has not been translated or reproduced in the national territory one year after its first publication.

Regarding limitations, the reproduction of excerpts or an entire work in a single copy without the author's authorization is possible:

- For citation, borrowing, or demonstration purposes, provided that the author's name and source are mentioned;
- Within a strictly family circle;
- For information backup and security purposes;
- For evidentiary purposes in judicial or administrative proceedings.

d) Transfer of rights

Three main types of contracts are provided for under Ordinance No. 03-05:
- The public communication license;
- The publishing contract;
- The performance contract.

These contracts include mandatory minimum clauses.

e) Sanctions

Counterfeiting of literary and artistic works is punishable as follows:
- A fine ranging from 500,000 to 1,000,000 DA;
- Imprisonment of 6 months to 3 years, or one of these two penalties;
- Destruction of equipment used to produce illicit copies;
- Destruction of illicit copies;
- Publication of court rulings in the press;
- Temporary (up to 6 months) or permanent closure of the establishment operated by the counterfeiter or their accomplice.

2.2. Related or neighboring rights

Neighboring rights are granted to auxiliary creators, including:

- Performing artists or performers;
- Phonogram and videogram producers;
- Broadcasting organizations

a) Recognized rights

— Moral rights

Only performing artists or performers benefit from the following moral rights
- The right to respect for the integrity of their performance;
- The right to have their name mentioned on their performance.

— Economic rights

Performing artists or performers have the right:
- To authorize the communication or reproduction of their performance;
- To receive remuneration for the exploitation of their performance.

Phonogram producers have the right:
- To authorize public communication or reproduction of their phonograms;
- To remuneration for the secondary exploitation of their commercial phonograms.

Broadcasting organizations have the right to authorize public communication or reproduction of their broadcasts.

b) Duration of protection

Moral rights are perpetual, inalienable, and transferable to heirs after the death of the performing artist or performer.

Economic rights are protected for 50 years from:

- The end of the calendar year of the recording or performance for performing artists or performers;
- The end of the calendar year of the phonogram's publication for phonogram producers;
- The end of the calendar year in which the broadcast took place for broadcasting organizations.

c) Exceptions and limitations

The exceptions and limitations to neighboring rights are the same as those established for copyright.

d) Sanctions

Sanctions for the counterfeiting of literary and artistic works also apply to violations of neighboring rights.

e) Copyright and neighboring rights royalties

The following entities are subject to royalty payments:
- Establishments broadcasting music in public areas;
- Owners of websites with background music;
- Advertising agencies using music in commercials;
- Organizations using on-hold music for telephone systems;
- Event organizers;
- Movie theaters, video rental stores, and cybercafés;
- Phonogram and videogram producers;
- Audiotex services;
- Manufacturers and importers of recording devices and media (including digital formats).

f) Calculation of royalties

Royalties are calculated:

- Proportionally to the revenue generated, with a guaranteed minimum, using rates ranging from 1% to 10%;
- On a flat-rate basis in cases specified by collection regulations;
- According to the provisions of the Ministerial Order of May 16, 2000, regarding private copying royalties.

g) Administrative obligations of licensed entities

These mainly include the obligation to declare the titles of the works used to the National Office of Copyright and Neighboring Rights (ONDA).

Copyright licenses and authorizations can be requested from ONDA agencies, whose addresses and contact details are available on the website: www.onda.dz

CHAPTER 11

Personal data protection Law

1. General provisions

Law No. 18-07 of June 10, 2018, on the protection of individuals in the processing of personal data, regulates the processing of personal data in Algeria.

Data processing in Algeria is subject to national law, particularly Law No. 18-07 on personal data protection (hereinafter: the "Law"), which is largely inspired by the European General Data Protection Regulation (GDPR). Even in cases involving foreign elements, such as international data transfers, foreign laws may also apply. Other foreign regulations may be applicable when data is transferred to or from another country.

- **Scope of the Law**

The Law applies to public or private entities linked to Algeria, whether the processing occurs within the national territory or the data controller uses resources in Algeria. Algerian data protection law has broad applicability, covering offenses committed by Algerians abroad, foreign residents in Algeria, and Algerian legal entities.

- **Data protected by the Law**

The Law applies to any operation involving personal data, whether automated or not, including collection, recording, organization, modification, use, disclosure, etc.

– **Personal Data:** Any information related to an identified or identifiable person, directly or indirectly, through an identification number or one or more specific characteristics (such as physical, physiological, genetic, biometric, psychological, economic, cultural, or social identity).
– **Sensitive Data:** Includes information related to racial or ethnic origin, political opinions, religious beliefs, and health, including genetic data. It should be noted that for companies operating in the healthcare sector, health-related data is particularly protected, and its processing generally requires authorization from the ANPDP (defined below).

2. Stakeholders

- **Data controller**

A natural or legal person who determines the purposes and means of data processing. The appointment of a data controller is crucial to establishing responsibility, ensuring compliance, and maintaining communication with stakeholders, with an obligation to guarantee data security and confidentiality.

The designation of a data controller is essential to establish a chain of responsibility in personal data management and ensure proper governance within the organization. A representative of the controller should also be appointed. This representative is responsible for internal awareness, compliance, and communication with various stakeholders, including serving as the point of contact for the ANPDP (defined below).

The data controller has several obligations, including:

– **Obligation to ensure processing security:** Necessary measures must be taken to protect data from accidental or unlawful destruction, loss, alteration, disclosure, or unauthorized access. The data controller remains responsible even in cases of outsourcing.
– **Obligation to ensure confidentiality:** The controller and all individuals with access to data processing are bound by professional secrecy, even after their duties end. Data processing is carried out only under the controller's instructions.

- **Data processor**

Any natural or legal person, public or private entity, or any other organization that processes personal data on behalf of the data controller.

Outsourced data processing must be governed by a contract or legal agreement binding the processor to the data controller. This contract must specify that the processor acts solely under the controller's instructions and complies with regulatory obligations.

The processor must provide sufficient guarantees regarding the implementation of technical and organizational security measures related to data processing and must ensure compliance with these measures.

3. Rights of data subjects

The Law grants every individual whose personal data is processed the following rights:

– **Right to information:** The data controller must inform the concerned individuals in advance, clearly and explicitly, about their identity, the purposes of data processing, and other relevant information (data recipients, obligations, rights, etc.). If informing individuals is impossible, the controller must notify the Authority.

  Note: The obligation to provide information does not apply if the processing is required by law or is conducted exclusively for journalistic, artistic, or literary purposes.
– **Right of access:** Individuals have the right to obtain confirmation of the use of their data and request its disclosure. The controller may request additional time from the Authority to respond to access requests. If requests are abusive, the controller may refuse them.

- **Right to rectification:** Individuals have the right to obtain, free of charge, the rectification (update, correction, deletion, or blocking) of their data within ten days of submitting their request to the controller. If there is no response or correction, the individual may refer the matter to the National Authority.
- **Right to object:** Individuals may object to the processing of their data for legitimate reasons (unless the processing is legally required) or to its use for direct marketing purposes.
- **Ban on direct marketing:** Direct marketing through automated calls, fax, email, or similar technology using personal data without prior consent is prohibited.

  Note: However, email marketing is permitted if the recipient's contact information was obtained directly during a sale or similar service and if the recipient is given a clear and unambiguous option to opt out.

4. National authority for the protection of personal data (ANPDP)

The ANPDP is an independent administrative authority with legal personality and financial and administrative autonomy. It consists of 16 members, including the president. The ANPDP performs the following functions:

- **Regulatory function:** Establishing codes of conduct and defining applicable standards for personal data processing.
- **Informative function:** Educating individuals and data controllers about their rights and obligations, and providing guidance to operators.
- **Supervisory function:** Receiving declarations related to personal data processing and granting authorizations, particularly for international data transfers.
- **Sanctioning function:** Handling complaints, appeals, and grievances, and imposing administrative sanctions for violations of the Law.

5. Control regime

a) Prior declaration

The Law establishes a prior control system based on declaration and prior authorization regimes. It stipulates that any personal data processing operation must be subject to a prior declaration to the National Authority or its authorization.

Regarding declarations, the Law refers to different types:

- Standard declaration to the National Authority.
- Simplified declaration for data processing operations that pose minimal risks to rights and freedoms, allowing for a simplified procedure.
- Modification declaration for changes made to existing data processing.
- Deletion or transfer declaration for the removal or transfer of a data file.
- Single declaration to the National Authority when multiple processing operations are carried out by the same controller with identical or related purposes.

– Exemption from declaration for registers open to public consultation (however, a designated "controller" must still be appointed and notified to the Authority).

— Declaration procedure

The declaration process is carried out via email (or by postal mail) using a form provided by the Authority. This form must include the following elements:

– Commitment to comply with the Law.
– Name and address of the data controller and its representative.
– Information about the data processing and data sharing.
– Data retention period.
– Measures taken to comply with the Law.

By submitting this information, the prior control process established by the Law is initiated, ensuring transparency and compliance before any personal data processing operation.

b) Authorization

Obtaining authorization from the National Authority for the Protection of Personal Data (ANPDP) is required when there are clear risks to individuals' rights and freedoms, based on an assessment of the prior declaration. This requirement applies to all data categories, especially sensitive data, whose processing is generally prohibited except in cases explicitly listed under Article 18 of the Law.

— Authorization procedure

The authorization request must contain the same information as the initial declaration. This ensures consistency between the details provided during the declaration and those required for authorization.

The National Authority for the Protection of Personal Data (ANPDP) will issue a reasoned decision within two months from the date of receipt of the request. This period may be extended by an additional two months, bringing the total processing time to four months. If the ANPDP does not issue a decision within this period, the authorization request is automatically considered rejected.

This rigorous procedure ensures a thorough evaluation of authorization requests, with defined deadlines to guarantee an efficient and timely management process.

c) Transfer of data abroad

The transfer of personal data to a foreign country is subject to strict regulations. Two essential conditions must be met for authorization:

– Approval from the National Authority: The prior authorization process, as previously described, must be followed to obtain the ANPDP's consent.
– Adequate level of protection by the recipient country: The recipient state must guarantee an adequate level of protection for privacy, freedoms, and fundamental rights of the concerned individuals.

It is strictly prohibited to communicate or transfer data that could compromise public security or the vital interests of the State. However, the Law allows such transfers under specific circumstances, including:

– When the individual has expressly consented to the transfer.
– When the transfer occurs under a bilateral or multilateral agreement to which Algeria is a party.

– When the transfer is necessary to protect the life of the concerned individual, safeguard the public interest, comply with legal obligations, execute a contract or pre-contractual measures, conclude or fulfill a contract in the interest of the concerned individual, facilitate international judicial cooperation, prevention, diagnosis, or treatment of medical conditions.

This cautious approach aims to ensure the protection of personal data during international transfers and to uphold the rights and freedoms of the individuals concerned.

6. Sanctions

The National Authority for the Protection of Personal Data (ANPDP) has the power to impose sanctions, allowing it to adopt administrative measures, including:

– Warning.
– Formal notice.
– Temporary or permanent withdrawal of the declaration receipt or authorization.

In addition to administrative measures, criminal sanctions may also apply, including substantial fines and imprisonment in cases of serious non-compliance.

CHAPTER 12

Labor law & social security

1. Key characteristics of labor law

Starting in 1988, Algerian legislation underwent a complete overhaul in areas affecting economic and social life, particularly in labor law. This transformation was aimed at opening the Algerian market to international investors and both national and foreign stakeholders.

As a result, labor relations were redefined in comparison to previous legal frameworks, which granted significant power to worker representation structures, such as the now-defunct Socialist Enterprise Management (GSE) in the public sector. Similarly, regulations governing work discipline and union authority in private companies were also revised.

Previously, private-sector labor relations were governed by a separate legal text (Ordinance No. 75-31 of April 29, 1975). Under the former laws, terminating a worker for disciplinary or economic reasons was extremely difficult, often facing opposition from the sole labor union. At that time, labor unions followed a "managerial" approach, aligned with socialist ideologies, and worker reinstatement was the most common court ruling in labor disputes.

To adapt to new economic realities, Algerian labor legislation underwent significant restructuring, introducing more flexible and employer-friendly regulations.

1.1. Law No. 90-11 of April 21, 1990, on labor relations

This law serves as the fundamental legal framework governing all labor relations in Algeria. Unlike previous regulations, it refers to "labor relations" rather than a "labor contract." Over time, this law has undergone multiple amendments and revisions to better align with market demands and employment needs.

There are also collective agreements or accords that regulate rules and procedures in major sectors of activity.

Several other implementing texts were subsequently required to give effect to certain provisions of the aforementioned law or to regulate specific aspects of corporate social life.

1.2. Collective bargaining

The collective agreement is a written agreement governing all employment and working conditions for one or more professional categories. It may be concluded for a fixed or indefinite term. The law requires employing entities to ensure adequate publicity for collective agreements.

1.3. Internal regulations

In employing entities with 20 or more workers, the law mandates the drafting of internal regulations, which must be submitted for consultation to participatory bodies, where they exist, or otherwise, to workers' representatives.

The internal regulations is a document through which the employer is required to establish: Rules concerning the technical organization of work, hygiene and safety regulations, disciplinary rules, it also determines the classification of professional misconduct, the corresponding levels of sanctions, and the procedures for their implementation.

The internal regulations must then be filed with the territorially competent labor inspectorate for approval within 8 days.

1.4. Exercise of trade union rights

Trade union rights are recognized for both workers and employers, who may establish trade union organizations for the purpose of defending their moral and material interests.

Legally constituted trade union organizations of salaried workers and employers may form federations, unions, or confederations, regardless of the profession, branch, or sector of activity to which they belong.

Federations and confederations have the same rights and obligations as those applicable to basic trade union organizations and are subject, in the exercise of their activities, to the provisions of Law No. 23-02 of April 25, 2023 (hereinafter, the "Law").

Only individuals of legal age, enjoying their civil and political rights, and engaged in an activity related to the purpose of the trade union organization are authorized to establish a trade union organization.

1.4.1. Purpose and rules for the creation of trade union organizations

Trade union organizations, in accordance with their purpose, are established to defend the economic, social, material, and moral interests, both individual and collective, of their members. as set out in their statutes. They must prioritize social dialogue and the peaceful resolution of conflicts.

Furthermore, they have the right to affiliate with international, continental, and regional organizations, provided that they comply with national laws and values.

1.4.2. Conditions and formalities for constitution

To establish a trade union organization, the concerned individuals must meet the following conditions:

- Enjoy their civil and political rights;
- Be of legal age; and
- Engage in an activity related to the purpose of the trade union organization.

The creation of the organization requires a constitutive general assembly, certified by a bailiff. Specific criteria for constitution are established based on the territorial level of the organization.

The declaration of constitution must be filed with the competent administrative authority (the Minister of Labor or the territorially competent Wali, depending on whether the trade union organization is national or local).

The registration is subject to the issuance of a receipt.

1.4.2.1. Drafting of the articles of association and internal regulations

Trade union organizations must establish their articles of association and internal regulations.

The articles of association must, under penalty of nullity, include the provisions defined in Article 38 of Law No. 23-02, ensuring fair participation of members and preventing any form of discrimination.

The internal regulations of the trade union organization aim to supplement or clarify the provisions of the articles of association, particularly regarding the operation of management and/or administrative bodies, admission procedures for members, loss of membership status, voting procedures, membership fees, and relations between members and the management and/or administrative bodies of the trade union organization.

A copy of the internal regulations must be sent to the competent administrative authority.

1.4.2.2. Acquisition of legal personality

The trade union organization acquires legal personality as soon as it is declared constituted. It enjoys the rights enumerated in Article 44 of Law No. 23-02, namely:

- Representing its members before third parties and public authorities and administrations;
- Concluding all contracts and agreements related to its purpose;
- Acquiring, either free of charge or for consideration, movable or immovable property for the fulfillment of its activities; and
- Taking legal action before competent courts for matters related to its purpose, particularly those affecting the interests of the union and the collective and individual interests of its members.

The movable and immovable property of the trade union organization used for its meetings and training activities cannot be seized, in accordance with its articles of association.

1.4.3. Financial and accounting management

The resources of a trade union organization include membership fees, income from its activities, donations and legacies, as well as subsidies from the State and local authorities. These revenues must be used exclusively to achieve the organization's objectives.

Trade union organizations may also engage in the following related activities:

- Trade union training and management training;
- Publishing journals and documents on any medium;
- Organizing congresses, seminars, conferences, symposiums, and informational and awareness-raising events;
- Publishing periodicals or journals, in accordance with their purpose and in compliance with the legislation and regulations in force, particularly the organic law on information.

It is prohibited for trade unions to engage in any commercial or real estate activities, except for the rental of properties by nature and the aforementioned related activities. They may also receive donations and legacies subject to charges and conditions only if they are compatible with the objectives set out in their articles of association and with the provisions of Law No. 23-02.

Accounting must be maintained in accordance with commercial standards, and organizations are required to submit their annual moral and financial reports to the competent administrative authority.

The opening of a bank or postal account for the trade union organization is subject to compliance with the procedures defined in Article 51 of Law No. 23-02.

1.4.4. Rights and obligations of members

Members of a trade union organization have the right to participate in its management bodies in accordance with the legislation in force, as well as with its articles of association and internal regulations.

To access these management bodies, certain conditions must be met, including those set out in Article 54 of Law No. 23-02, namely:

- Being a member of the trade union organization;
- Being at least 21 years old;
- Enjoying civil and civic rights;
- Not having been sentenced to a custodial penalty for an offense incompatible with trade union activities;
- Possessing professional qualifications and/or an educational background; and
- Providing proof of trade union training and/or training in labor law.

As expressly required by Law No. 23-02, the head of the trade union organization must be of Algerian nationality.

Foreign employees or employers who are members of a trade union organization may be part of its management and/or administrative bodies, in compliance with the provisions related to eligibility conditions and in accordance with its articles of association and internal regulations, within the limit of 30% of its members, provided that they:

- Have legally resided in Algeria for at least three (3) years;
- Hold a valid work permit for employees, or documents proving an industrial, commercial, craft, or liberal activity for employers, issued by the competent public authorities.

1.4.5. State subsidies

Trade union organizations may receive subsidies from the State and local authorities based on their representativeness, their contribution to the promotion of collective bargaining and conflict prevention, and their financial transparency.

These subsidies must be used in accordance with the organization's objectives

1.4.6. Suspension and dissolution of the trade union organization

The activity of a trade union organization may be suspended for various infractions, as enumerated in Article 62 of Law No. 23-02, at the request of the competent administrative authority, for a period not exceeding two (2) years by judicial order. In case of non-compliance with formal notices, the matter may be referred to the competent court, which may order the suspension by an enforceable judgment.

Furthermore, the dissolution of a trade union organization may be voluntarily decided by its members. It may also be ordered by judicial means in the cases provided for in Article 65 of Law No. 23-02.

1.4.7. Protection of trade union members

Protection is guaranteed, under the provisions of Law No. 23-02, to any worker who is a member of a trade union organization, whether representative or not:

- It is prohibited to make dismissal decisions or impose any other disciplinary sanctions related to a worker's trade union membership or activity.
- Transfers or job changes during the mandate of a trade union representative are subject to specific conditions.
- The trade union organization alone is competent to handle strictly trade union-related offenses, in accordance with its statutes and internal regulations.
- Before initiating disciplinary procedures for gross misconduct, the employer must inform the employee, their trade union organization, and the competent labor inspector by registered letter with acknowledgment of receipt.
- An employee who believes they are a victim of discriminatory measures due to their trade union activity may submit a written complaint to the competent labor inspector. The labor inspector is responsible for investigating the complaint and may require the employer to overturn the contested decision if discrimination is established.
- In the case of unfair dismissal, the employee or their trade union may bring the matter before the competent court to challenge the decision. The court may annul the dismissal, order the worker's reinstatement, and award damages.

However, protected trade union activities do not cover work stoppages or disruptions that fail to comply with legal procedures. Additionally, inappropriate behavior such as illegitimate demands, insults, threats, or violence is not covered by trade union protection and may result in disciplinary and criminal sanctions.

1.5. Participation bodies

Participation within the employing organization is ensured as follows:

- When multiple workplaces exist, in every workplace with 20 or more employees, personnel delegates represent employees, while a participation committee composed of elected personnel delegates operates at the employer's headquarters.
- If there is only one workplace, the personnel delegate assumes the responsibilities of the participation committee

The participation committee, in principle, receives all relevant information from the employer at least once per quarter regarding company operations, particularly concerning employment, hygiene, and workplace safety. The committee takes appropriate actions to ensure compliance with these regulations by the employer. It also provides opinions on annual plans, work organization, restructuring projects, workforce redeployment, staff reductions, and the management of social welfare activities.

When the employer has more than 150 employees, the participation committee appoints one or more representatives to represent the employees within the board of directors or the supervisory board, if such a body exists.

Labor inspectors have the following roles:

- **Advisory and informational role:** Advising the parties in the employment relationship and conducting conciliation to prevent and resolve collective labor disputes.
- **Supervisory role:** Ensuring compliance with laws, regulations, collective agreements, etc.
- **Sanctioning role:** Identifying and reporting violations.

The regulation and prevention of collective labor disputes and the exercise of the right to strike are also subject to specific legal provisions.

The regulation and prevention of collective labor disputes, as defined by Law No. 23-08 of June 21, 2023, on the prevention and resolution of collective labor disputes and the exercise of the right to strike, establish a consultation process between the employer and workers' representatives for preventive purposes, through collective agreements and conventions, and ultimately, through conciliation and arbitration.

The right to strike is recognized and regulated by Law No. 23-08. A strike may only take place after the failure of the aforementioned amicable settlement attempts and in the absence of other settlement mechanisms provided for by collective agreements and conventions.

In this context, the exercise of the right to strike must comply with all conditions set forth by applicable legislation, particularly regarding the strike notice period, which is set at a minimum of 10 days following its notification to the employer and the territorially competent labor inspection authority. The notice period may be extended to a minimum duration of 15 days, notably for sectors involving the provision of essential services, in accordance with the provisions of Article 2 of Executive Decree No. 23-361 of October 17, 2023. This right to strike is subject to limitations imposed by the necessities of social life, including minimum service requirements, requisition measures, and prohibitions concerning certain activities and positions.

1.6. Employer's obligations regarding registers

The special books and registers that every employer is required to maintain are as follows:

- The register of observations and formal notices from the labor inspection authority;
- The payroll book;
- The register of paid leave;
- The personnel register;
- The register of foreign workers;
- The register of technical inspections of industrial installations and equipment;
- The register of hygiene, safety, and occupational medicine;
- The register of work-related accidents.

1.7. Recruitment

Pursuant to Law No. 04-19 of December 25, 2004, on worker placement and employment control, every employer is required to notify the competent agency, the municipality, or an authorized private organization of any vacant position within their company that they intend to fill, as well as information regarding workforce needs and recruitments carried out. Failure to comply results in a fine ranging from 10,000 DA to 30,000 DA per unnotified vacant position or for any recruitment made or workforce requirement unreported to the public employment placement agency. In the event of a repeated offense, the fine is doubled.

Law No. 20-03 of March 30, 2020, amended and supplemented Law No. 04-19, stipulating that the National Employment Agency, municipalities, and authorized private organizations must fulfill the job offer submitted within a maximum period of five working days from the date of submission.

The employer may not proceed with direct recruitment before the expiration of the aforementioned period. However, if necessary, the employer may proceed with direct recruitment while immediately informing the said agency.

Additionally, the employer is required to process all job applications submitted by job seekers referred to them and listed on the nominative lists sent by the competent placement agency and must notify the agency of the outcome of these applications.

Law No. 04-19 mentioned above has also been supplemented by Executive Decree No. 09-94 of February 22, 2009. This decree defines the frequency and characteristics of work-

force demand information and statistical data that must be transmitted to the National Employment Agency by employers, municipalities, and accredited private placement agencies. The transmission of information must occur quarterly for workforce demand and monthly for completed recruitments by employers.

In addition to the aforementioned obligations, Law No. 14-06 of August 9, 2014, relating to national service, stipulates that any citizen who does not provide proof of regularization of their national service status cannot be recruited in either the public or private sector or engage in a liberal profession or activity.

Measures to encourage and support employment promotion are also established, aiming to determine the level and modalities for granting benefits to employers who hire job seekers.

A reduction, depending on the case, applies to the employer's share of social security contributions for employers recruiting job seekers. The maximum duration of these reductions is three (3) years.

To benefit from the advantages provided by the law and its implementing regulations, employers recruiting job seekers must submit a request, along with the required documentation, to the territorially competent Wilaya agency of the National Social Security Contributions Collection Fund within a maximum period of ten (10) days from the hiring date.

The right to work is guaranteed by law, and no discrimination in employment, remuneration, or working conditions based on age, gender, social or marital status, family ties, religion, political beliefs, or union affiliation (or lack thereof) is permitted.

There are various legal provisions regulating specific employment regimes (special statuses) for certain categories of workers, such as company executives, air and maritime transport flight personnel, commercial and fishing vessel crews, home-based workers, journalists, artists and performers, sales representatives, elite and professional athletes, and domestic workers.

The minimum recruitment age is 16 years, except in the case of apprenticeship contracts. In such cases, written authorization from the guardian is mandatory. Non-compliance with the legal minimum working age is punishable by a fine ranging from 10,000 DA to 20,000 DA. Dangerous, unhealthy, and harmful work to minors' health or morality is strictly prohibited.

1.8. Job positions for disabled persons

Under the provisions of Decree No. 14-214 relating to the adaptation of job positions for disabled persons, every employer is required to allocate at least 1% of its job positions to disabled persons whose worker status is recognized.

The number of positions to be filled by disabled workers is determined based on the total number of salaried employees as of December 31 of the previous year, applying the 1% proportion, rounded down to the nearest whole number.

Failure to comply with these provisions subjects the employer to an annual financial contribution equal to the product of the number of reserved job positions.

However, an employer whose total number of workers is more than 20 but less than 100 is required to pay an annual contribution equal to two-thirds of the annual national minimum wage.

At the end of each fiscal year, the employer must submit a detailed list of employed disabled persons and/or proof of payment of the financial contribution to the relevant Wilaya (regional) employment and social action departments.

The implementation modalities of this decree were specified through an interministerial order dated October 7, 2019, published on January 15, 2020, in Official Journal No. 2.

1.9. Types of employment contracts

An employment contract may be either for an indefinite or a fixed term, as provided by legislation. In the absence of written specifications, the employment contract is always presumed to be for an indefinite period. It may be proven by any means.

The same indefinite-term contract may be concluded on a part-time basis, but never for less than half of the legal working hours:

– when the workload does not justify employing a full-time worker;
– when an active worker requests it for family or personal reasons.

A fixed-term contract may be concluded on a full-time or part-time basis:

– when it involves performing non-renewable tasks or services;
– to replace a temporarily absent permanent employee;
– for performing periodic discontinuous work;
– when there is an increase in workload or justified seasonal reasons;
– when the activities or jobs are limited in duration or naturally temporary.

In all cases, the employment contract must specify its duration and the reason for its use. The labor inspector ensures compliance with these provisions.

1.10. Probationary period

A newly hired worker is generally subject to a probationary period that varies according to their qualifications. It may last up to six months for low-skilled workers and up to 12 months for highly skilled positions.

The probationary period is determined by collective agreements for each category of workers. In practice, the probationary period is one month for unskilled workers and three to six months for managerial staff. If the worker is confirmed in their position, the probationary period is counted toward their seniority.

During the probationary period, the contract may be terminated by either party without notice or compensation.

1.11. Company executives

Regarding company executives, they are subject to the provisions of Executive Decree No. 90-290 of September 29, 1990.

The employment contract of the executive/manager is concluded with the company's administrative body, namely the board of directors or the supervisory board. It specifies the rights and powers conferred by this body. It concerns the manager, the principal employee and the management executives who assist them. The rights and obligations of company executives, including their remuneration, are not subject to collective bargaining.

The legislation applies to both national and foreign executives.

1.12. Legal working hours

The legal working hours are set at 40 hours under normal working conditions. They are distributed over 5 working days, from Sunday to Thursday inclusive.

The weekly rest days are set for Friday and Saturday. Some administrative services that deal directly with the public remain open on Saturdays (such as P&T and APC).

The arrangement and distribution of working hours within the week are determined by collective agreements.

When working hours follow a continuous shift system, a break period must be provided. This break cannot exceed one hour, of which half an hour is considered working time. In practice, the workday is often continuous.

However, working hours may be reduced for employees engaged in particularly strenuous and hazardous tasks, or they may be extended for certain positions that involve periods of inactivity.

In agricultural operations, the reference legal working time is set at 1,800 hours per year, distributed according to the needs of the activity or the specific characteristics of the region.

Overtime work is permitted but must meet an absolute necessity and remain exceptional. Overtime hours cannot exceed 20% of the legal daily working time, and the total working hours cannot exceed the maximum set by law, which is 12 hours per day. Exclusively in the following cases, this maximum may be exceeded after mandatory consultation with worker representatives and the labor inspector:

– To prevent imminent accidents or repair damages caused by accidents;
– To complete tasks that, due to their nature, would cause damage if interrupted.

Overtime work entitles employees to a wage increase, which must not be less than 50% of the normal hourly wage.

Night work is defined as work performed between 9 PM and 5 AM. It is prohibited for:
– Workers of either sex under the age of 19;
– Female employees.

However, exceptions may be granted by the labor inspector when the nature and specifics of the job require it.

Shift work is permitted and widely practiced. It entitles employees to an allowance.

1.13. Guaranteed national minimum wage (SNMG)

Work remuneration may consist of a salary and/or income proportional to results. It is agreed upon between the worker and the employer, based on the professional classifications determined by the collective agreements applicable to the employer.

Since June 1, 2020, the guaranteed national minimum wage for a 40-hour workweek has been set at 20,000 DA under Presidential Decree No. 21-137 of April 7, 2021, establishing the guaranteed national minimum wage.

For the determination of the GNMW, consideration is given to the evolution of:
– Recorded national average productivity;
– Consumer price index;
– General economic situation.

Thus, the GNMW includes the base salary, allowances, and bonuses of all kinds, excluding those related to:
– Reimbursement of expenses incurred by the worker;
– Professional experience or any allowance compensating seniority;
– Work organization concerning shift work, permanent service, and overtime;
– Isolation conditions;
– Performance, profit-sharing, or participation in results with an individual or collective nature.

The payment of a remuneration lower than the GNMW or the salary set by the collective agreement or contract results in a fine ranging from 10,000 DA to 20,000 DA. In case of recurrence, the penalty ranges from 20,000 DA to 50,000 DA multiplied by the number of affected workers.

1.14. Legal rest and leave

1.14.1. Weekly rest

It is generally set on Friday unless economic imperatives do not allow it. There are paid holidays established by laws, which generally correspond to religious holidays and events related to the country's political history, such as the anniversary of the outbreak of the National Liberation War on November 1, and Independence Day on July 5, etc.

When compliance with the weekly rest day is incompatible with the nature of the activity, employers are automatically authorized to grant it on a rotating basis.

A compensatory rest of equal duration is granted in case of work on a legal rest day. The worker is also entitled to overtime pay.

In retail trade structures and establishments, the weekly rest day is determined by a decision of the Wali, based on consumer supply needs.

1.14.2. Annual paid leave

The worker is entitled to annual leave paid by the employer. They cannot waive this right. This leave entitlement is based on an annual work period from July 1 of the year preceding the leave to June 30 of the leave year.

For new hires, the starting point is the hiring date. A period exceeding 15 working days in the first month of employment counts as a full month of work for calculating leave.

1.14.3. Specificities

In Northern Algeria:

- Leave is 2.5 days per month of work, and its duration cannot exceed 30 calendar days per year of work;
- Any period equal to 24 working days or 4 weeks of work is equivalent to 1 month of work;
- This period equals 180 working hours for seasonal workers.

In Southern Algeria:

- An additional leave of no less than 10 days per year of work is added;
- Collective agreements set the terms for granting this leave;
- The leave period may be extended for workers engaged in particularly strenuous physical and mental work.

The employment relationship cannot be suspended or terminated during the annual leave.

The annual leave allowance is equal to one-twelfth of the total remuneration received by the worker during the reference year or the year preceding the leave.

The annual leave allowance is paid by a specific fund for workers in professions not continuously employed by the same employer. In such cases, employer organizations must affiliate with this fund and pay a contribution.

1.14.4. Unpaid leave for business creation

1.14.4.1. In the private sector

The worker is entitled to unpaid leave or the possibility of working part-time for business creation, in accordance with the legislation and regulations in force.

The duration of unpaid leave or part-time work for business creation is set at a maximum of one year during their professional career. It may be exceptionally extended for up to

six months, with justification provided by the concerned worker. The date of departure for unpaid leave or the transition to part-time work for business creation for a maximum period of six months may be postponed, after consultation with the participation committee, if the employer deems that the worker's absence would have significant adverse effects on the company.

If the request for unpaid leave is denied, the worker may file an appeal with their employer within 15 days of receiving the denial decision. The employer has eight days to respond. In the absence of a response or agreement, the dispute may be subject to settlement procedures in accordance with the labor legislation in force.

During this period, the worker remains bound by a duty of loyalty towards their employer.

To benefit from this leave, the Executive Decree No. 22-352 of October 19, 2022, setting the conditions and modalities for a worker's right to unpaid leave or part-time work for business creation, requires the worker to meet the following conditions:

- Be in an actual working situation;
- Hold a permanent employment contract;
- Be under 55 years old;
- Have accumulated at least three years of seniority, consecutive or not, within the company;
- Commit to respecting fair competition rules, in accordance with the legislation in force.

Taking unpaid leave for business creation results in the suspension of remuneration and the cessation of benefits related to seniority and advancement. However, the worker retains the acquired rights related to their position as of the date of unpaid leave for business creation.

During the business creation leave, the worker continues to benefit from social security coverage under regulations [81].

During the extension period of unpaid leave, the worker may receive healthcare benefits under the employee insurance scheme within the limit of this period, provided they pay a monthly compensation contribution calculated at a rate of 13% of the guaranteed national minimum wage.

If the business project succeeds, the beneficiary is entitled to social insurance benefits under the self-employed scheme, in accordance with the legislation and regulations in force, provided they present a declaration of effective business start.

The worker may request reinstatement in their previous position or full-time reemployment at least one month before the expiration of unpaid leave or the part-time work period for business creation, if their project has not materialized within the set deadlines. If no request is made, the employment relationship is terminated.

1.14.4.2. Regarding the public service

Public service employees (civil servants) are only entitled to unpaid leave for business creation. This leave is granted once during the entire professional career for a period of one year, which may, exceptionally, be extended for a maximum of six months.

The applicant must notify their employer of the unpaid leave request three months before the planned departure date and must meet the following conditions:

- Be under 55 years old at the time of application submission;
- Have at least five years of seniority as a civil servant;

81 Law No. 22-16 of July 20, 2022, supplementing Law No. 90-11 of April 21, 1990, on labor relations.

– Commit to respecting fair competition rules and not causing harm to their employer;
– Provide details regarding their business project.

The employer is legally required to respond to the civil servant's request within a maximum period of one month from the date of submission. After consulting the joint administrative committee, the employer's response must include one of the following:

– Granting the leave;
– Postponing the decision for a period not exceeding three months;
– A motivated rejection.

In the event of rejection, the applicant may contest the decision within 15 days.

It should be noted that if the civil servant does not complete their business creation project, they are reinstated by right to their original grade. Otherwise, they will be removed from the employer's workforce.

During the leave period, the civil servant will continue to benefit from in-kind benefits for one calendar year. If the leave is extended, they must pay a monthly compensation calculated at a rate of 13% of the guaranteed national minimum wage.

1.14.5. Absences

Apart from the cases expressly provided for by the applicable regulations, absences are not remunerated. Cases of absence without loss of remuneration are related to union or staff representation, according to durations set by legal or contractual provisions, the completion of a pilgrimage to the Holy Places once during the worker's professional career, as well as for professional or union training cycles authorized by the employer and for academic or professional exams.

The following family events entitle the worker to a paid absence of three working days:

– The worker's marriage;
– The birth of a child of the worker, upon subsequent justification;
– The marriage of one of the worker's descendants;
– The death of an ascendant, descendant, or first-degree collateral relative of the worker or their spouse, as well as the death of the worker's spouse, upon subsequent justification;
– The circumcision of the worker's child.

During prenatal and postnatal periods, female workers benefit from maternity leave in accordance with the legislation in force. It lasts for 14 consecutive weeks and must be taken between a maximum of six weeks before and a minimum of one week before the expected delivery date. This leave is fully covered (100%) by the social security fund.

They may also benefit from additional facilities under the conditions set by the employer's internal regulations.

1.15. Training and career advancement

Every employer with at least 20 workers is required to carry out training and professional development activities for employees, based on a program subject to the opinion of the participation committee. Workers are required to attend these courses and training sessions. The worker designated by the employer must actively contribute to training and professional development initiatives.

Subject to the employer's approval, a worker enrolled in a professional training or development course may benefit from adjustments to working hours or a special leave with job reservation.

Employers are also required to organize apprenticeship programs for young people aged between 15 and 25 years. The employer is exempt from paying social charges during the entire duration of the apprenticeship contract. Apprenticeship is conducted through a written contract that specifies all conditions and is carried out by a training institution.

The apprentice receives a pre-salary, which is a fixed amount paid monthly throughout the duration of the training, starting from the first day of training.

The payment terms for the apprentice's pre-salary are defined by Executive Decree No. 20-123 of May 19, 2020, which sets the remuneration scales for apprentices based on the size of the employing entity.

Indeed, when an apprentice is placed with an employer or a craftsman employing between 1 and 20 workers, they receive a pre-salary paid by the State, represented by the public vocational training institution, in the amount of 3,000 DA per month during the first six months of training.

Beyond this period, the apprentice receives a progressive monthly pre-salary indexed to the guaranteed national minimum wage, paid by the employer or the craftsman, as follows: 30% of the SNMG from the 2nd semester, 50% of the SNMG from the 3rd and 4th semesters, and finally 60% of the SNMG from the 5th semester onward.

When the apprentice is placed with an employer with more than 20 employees, they receive a progressive monthly pre-salary indexed to the guaranteed national minimum wage, paid by the employer, as follows:

- 1st semester: 20% of the SNMG;
- 2nd semester: 30% of the SNMG;
- 3rd and 4th semesters: 50% of the SNMG;
- 5th semester: 60% of the SNMG.

1.16. Modification, suspension, and termination of the employment relationship

The modification of the employment contract occurs when laws, regulations, collective agreements, or accords introduce more favorable provisions for employees than those stipulated in the contract itself. A mutual agreement between the contracting parties may also lead to modifications.

This rule is interpreted very strictly by Algerian jurisprudence, which does not distinguish between substantial and non-substantial modifications to the employment contract. The worker's refusal to agree prevents any modification, even minor.

The suspension of the employment relationship occurs automatically due to:

- Mutual agreement between the parties (leave of absence);
- Sick leave;
- Fulfillment of national service obligations (military service);
- Holding an elected public office;
- Deprivation of liberty of the worker, provided no final conviction has been pronounced;
- A disciplinary decision suspending the exercise of duties;
- Exercising the right to strike;
- Unpaid leave.

The worker is reinstated to their original position or a position with equivalent remuneration upon the end of the suspension.

The termination of the employment relationship occurs due to:

- The nullity or legal revocation of the employment contract;
- The expiration of a fixed-term contract;

- Resignation, which is a right allowing the worker to leave their job, subject to a notice period generally equivalent to the probationary period;
- Total incapacity to work;
- The legal cessation of the employer's activity;
- Retirement;
- Death;
- Economic or disciplinary dismissals.

Indeed, Algerian labor regulations consider the termination of an employment relationship following a dismissal. The term "dismissal" remains quite broad, and Article 66 of Law No. 90-11 does not specify its type. In this regard, it is essential to distinguish between different types of dismissal: dismissal of a worker who has not committed serious misconduct, disciplinary dismissal, and dismissal due to workforce reduction.

When economic reasons justify it, the employer may proceed with a workforce reduction. This reduction is carried out through collective dismissal, resulting in simultaneous individual layoffs decided after collective negotiation. It imposes on the employer a prohibition on hiring workers with the same qualifications in the same workplaces.

A workforce reduction can only take place once all other job preservation measures have been exhausted, such as reduced working hours, part-time work, retirement, or transfer to other activities. In this case, a worker who refuses the proposed transfer is still entitled to a workforce reduction indemnity.

A protection mechanism has been put in place for workers at risk of losing their jobs for economic reasons.

This mechanism stipulates that any employer with more than nine workers who wishes to adjust employment levels must first use all the aforementioned means. The worker benefits from social protection, ranging from early retirement to unemployment insurance. Unemployment insurance and early retirement schemes are financed by contributions from both employers and employees across all sectors. A worker granted early retirement is entitled to no compensation other than payment for accrued vacation.

Regarding disciplinary dismissal, the law specifies the limited cases in which this type of dismissal is allowed, as described in Article 73 of Law No. 90-11 and detailed below. The law outlines the procedure the employer must follow before resorting to disciplinary dismissal, referring, if necessary, to the company's internal regulations. However, it does not specify cases of dismissal for workers who have not committed any misconduct. Furthermore, due to legal gaps in the current regulations, it does not define the mandatory procedure to be followed. Only the internal regulations may define cases leading to dismissal for reasons other than those provided by law and establish the applicable procedure.

The restrictive cases of disciplinary dismissal that can result in immediate dismissal without notice or compensation are as follows:

- Criminal offenses committed in the course of work;
- Unjustified refusal to carry out professional duties;
- Disclosure of secrets related to professional activities;
- Participation in a collective work stoppage in violation of legal provisions;
- Acts of violence;
- Refusal to comply with a legally notified requisition order;
- Consumption of alcohol or drugs in the workplace.

Dismissal must comply with the procedures set by law and internal regulations, including:

- Mandatory written notification of the dismissal decision;
- A hearing for the worker, who may be assisted by another employee of the company.

There are two types of procedures for resolving individual labor disputes, which may be stipulated in collective agreements:

- **Internal procedure:** The worker submits the dispute to their direct supervisor, who must respond within eight days. If no response is received, the worker may appeal to the personnel management department or the employer directly, who must respond in writing within 15 days, providing reasons for any total or partial refusal.
- **Litigation procedure:** If the internal procedure fails, the dispute must be submitted to a conciliation attempt, except in cases of bankruptcy, judicial settlement, or if the defendant resides outside the jurisdiction of the competent labor inspection authority. This process involves:
  - A conciliation attempt before the conciliation board, composed of two worker representatives and two employer representatives;
  - If conciliation fails, the conciliation board, through the labor inspector, records a non-conciliation report;
  - The concerned party then submits the case to the competent labor court, presided over by a professional magistrate assisted by worker and employer assessors;
  - The court rules in first and final instance, except regarding jurisdictional matters.

Jurisprudence tends to favor workers, and it is not uncommon for judges to order the reinstatement of the worker while awarding them financial compensation at the employer's expense. This compensation cannot be less than the wages they would have received had they continued working, in addition to damages, despite legislative relaxations in this area. Judges place particular importance on procedural compliance.

In other words, the employer risks paying wages from the date of dismissal until the effective reinstatement date. Legal procedure deadlines must be considered. The employer will then be obligated to reinstate the worker and proceed with dismissal following the correct procedure. However, even if the dismissal procedure is properly followed, the employer is not protected from being summoned to court, as any dismissal outside the cases listed in Article 73 is presumed to be abusive. The judge may rule for either the worker's reinstatement with retention of acquired benefits or, if one of the parties refuses, financial compensation for the worker.

A work certificate must be issued to the dismissed worker, indicating the hiring and termination dates, as well as the positions held and corresponding periods.

A dismissed worker who has not committed serious misconduct is entitled to a notice period, which is generally equal to the probationary period corresponding to their professional category. During this period, the worker is entitled to two paid, cumulative hours per day to seek new employment. Similarly, company executives benefit from a half-day of paid leave per day during the notice period.

The employer can choose to exempt themselves from respecting the notice period by paying the worker an amount equivalent to their total remuneration for the notice period. This period applies even in the case of business cessation.

Finally, in case of a change in the employer's legal status, ongoing employment relationships continue on the date of the change. This applies in cases of mergers, acquisitions, and business takeovers.

2. Social security, retirement, and unemployment

The social security system in Algeria is governed by numerous legal texts.

This system is mandatory and grants social security funds special powers and privileges under common law.

2.1. Coverage and affiliation

Any employer, whether a natural or legal person (including individuals employing workers for their own needs, as well as self-employed workers), is required to submit an affiliation request to the territorially competent Wilaya social security agency within 10 days [82] following the start of their activity. This request, in addition to the forms provided by the social security funds, must be accompanied by certain documents, such as the company's statutes, the commercial register, and the tax registration certificate.

The employer is also required to submit an affiliation request for each employee within 10 days of their hiring to the social security organization located in the jurisdiction of the workplace.

If the worker is not affiliated within the required timeframe, the employer may face sanctions, and the worker may be affiliated automatically upon request by the worker or their beneficiaries. The employer is subject to penalties for failure to declare coverage as well as for failing to declare an employee.

Within 30 days following the end of each calendar year, the employer must submit a nominative declaration of salaries and employees to the social security agency, detailing the remuneration received from the first to the last day of the year, as well as the amount of contributions due.

If this declaration is not submitted, the social security organization may provisionally determine the amount of contributions based on the contributions paid for the previous month, quarter, or year, or on a flat-rate basis according to any available evaluation criteria.

The provisionally determined contribution amount is increased by 5%, and an additional penalty of 10% of the due contributions must be paid. The failure to affiliate a worker with social security results in a fine ranging from 200,000 DA to 400,000 DA per non-affiliated worker. In case of repeat offenses, the fine increases to between 400,000 DA and 1,000,000 DA per non-affiliated worker.

All individuals, regardless of nationality, working in Algeria under a salaried or equivalent status, are required to be affiliated with social security.

2.2. Retirement

Law No. 16-15 of December 31, 2016, amending and supplementing Law No. 83-12 on retirement, states that "a worker claiming retirement pension benefits must necessarily meet the following two conditions:

– Be at least 60 years old; however, female workers may retire at their request starting from the age of 55.
– Have worked for at least 15 years," as stipulated in Article 6 of this law.

82 In practice, the 10-day counting reference is established from the hiring date of the first employee.

It is explained that "to be eligible for a retirement pension, the worker must have completed actual work for a duration of at least seven and a half (7.5) years and paid social security contributions."

It is also specified that "subject to the provisions of Article 10 of this law, the worker may voluntarily choose to continue their activity beyond the aforementioned age, within a limit of five years, during which the employer cannot impose retirement."

Executive Decree No. 20-107 of April 30, 2020, established the conditions for continuing work after the legal retirement age and confirmed the possibility for workers to extend their activity beyond the legal retirement age for up to five years.

In this regard, a written request, dated and signed by the worker, must be submitted to the employer at least three months before the legal retirement age. In return, the employer must issue a receipt of submission. However, the employer may decide to impose retirement once the worker reaches the age of 65 or older.

Article 7 of Law No. 16-15 states that "a worker holding a position with high arduousness may benefit from a retirement pension before the age specified in Article 6, after a minimum period spent in that position."

It should be noted that the list of high-arduousness professions has not yet been established. A decree published in December 2023 set out the classification of professions and jobs in Algeria. Article 10 states that "a worker meeting the conditions set out in Articles 6, 7, 7 bis, and 8 of this law is entitled to retirement. However, retirement cannot be imposed before the pension notification is issued."

The law also provides, in Article 61 bis, that "without prejudice to the provisions of this law and for a transitional period of two years, the retirement pension may be granted with immediate effect if the salaried worker has completed an effective working period that has resulted in at least 32 years of contributions and has reached or exceeded the minimum age of 58 years in 2017 and 59 years in 2018."

Retirement admission in the aforementioned cases occurs exclusively at the request of the salaried worker. The text also adds that "the age specified in Article 6 of Law No. 83-12 of July 2, 1983, applies to the workers mentioned in this article from January 1, 2019."

Social security retirement pensions and allowances are revalued for the year 2024 in accordance with the provisions of the decree of May 14, 2024, regarding the revaluation of pensions, allowances, and social security annuities, applying the rates set for each year as follows:

	Pensions and allowances with an amount of	**Rate** in %
	Less than or equal to 15.000 DA	15
Greater than 15.000 DA	and less than or equal to 25.000 DA	13
Greater than 25.000 DA	and less than or equal to 35.000 DA	12
Greater than 35.000 DA	and less than or equal to 42.500 DA	11
Greater than 42.500 DA	and less than or equal to 70.000 DA	10,75
Greater than 70.000 DA	and less than or equal to 100.000 DA	10,50
Greater than 100.000 DA	and less than or equal to 150.000 DA	10,25
Greater than 150.000 DA		10

In accordance with the recent legislation in force since January 1, 2023, the amount of the retirement allowance now corresponds to 75% of the guaranteed national minimum wage (SNMG). At the same time, the retirement pension has been revised upwards, now reaching 100% of the SNMG. (See Law 23-11 of June 26, 2023, Articles 16 and 47).

The revaluation amount is added to the legal minimum retirement pension provided for by Law No. 83-12 of July 2, 1983, as amended and supplemented, and Ordinance No. 12-03, to the additional allowances provided for by Ordinance No. 06-04, as well as to the exceptional increases in pensions and retirement allowances and the additional allowance for the retirement allowance provided for by Law No. 08-21 of December 30, 2008, and the exceptional revaluation provided for by Ordinance No. 12-03 of February 13, 2012, as referenced above.

2.3. Organization of unemployment insurance

Faced with the risk of job loss caused by the restructuring of the Algerian economy, particularly the privatization of public sector companies, the legislator has taken measures to organize and ensure the protection of workers.

Unemployment insurance applies to workers in the economic sector who lose their jobs involuntarily for economic reasons, provided they meet the following conditions:

- Be affiliated with social security for a cumulative period of at least 3 years;
- Be a confirmed employee within the employing organization before being dismissed for economic reasons;
- Be a member and up to date with contributions to the unemployment insurance scheme for at least 6 months before the termination of employment;
- Not have refused a job or retraining for employment;
- Not receive income from any professional activity;
- Appear on the nominative list approved by the territorially competent labor inspector;
- Be registered as a job seeker with the competent public employment administration for at least 2 months;
- Be a resident of Algeria.

It does not apply to employees who have reached the legal retirement age, those eligible for early retirement, or those who lose their job temporarily or partially for less than half of the legal working time.

The management of unemployment insurance is entrusted to an autonomous national fund (CNAC). The expenditures for unemployment insurance benefits are financed by both employees and employers.

Unemployment insurance is funded partly by employees (0.5%) and partly by employers (1%). Employers in various sectors, including the State, contribute the portion of social security contributions allocated to financing unemployment insurance on behalf of their employees.

The conditions, procedures, and frequency of payments are those provided for by the legislation governing the collection of social security contributions.

An employer that has ceased operations or undergone a duly approved workforce reduction by the labor inspection must provide the National Unemployment Insurance Fund with a detailed list of employees who will benefit from the unemployment insurance scheme. This list must be submitted to the labor inspection for prior approval and to the local employment agency for registration on the job seekers' list.

The employer must pay a contribution to open rights (COD) for all employees with at least 3 years of seniority. This contribution is calculated at 80% of one month's salary per year of seniority, up to a maximum of 12 months of salary. The payment terms are negotiated with the unemployment insurance organization, but in all cases, the employer must pay 2 months of salary per affected employee as an advance on the payment schedule, which cannot exceed 15 months from the date of signing the agreement.

A worker admitted to the unemployment insurance scheme is entitled to all social security benefits due to workers.

An executive decree No. 07-292 of September 26, 2007, amending decree No. 65-75 of March 23, 1965, concerning family allowances, was published. Its purpose is to reassess the allowance for a single salary. The annual rate of the allowance for a single salary is set at 9,600 DA for public sector employees who have at least one child dependent and whose spouse has no income. This provision took effect on January 1, 2007.

2.4. Base, payment, control, and disputes

2.4.1. Base of contributions

The base for social security contributions consists of all salary elements or income proportional to the results of work, excluding:

- Family-related benefits (school allowance, allowance for a single salary);
- Allowances representing expenses (meal allowance, vehicle allowance, etc.);
- Bonuses and allowances of an exceptional nature (severance allowance, retirement departure allowance, etc.);
- Allowances linked to specific residency and isolation conditions (housing in mobile cabins, shift work system, etc.);
- The salary subject to contribution cannot, in any case, be lower than the SMIG (Guaranteed Minimum Interprofessional Wage);
- For pensions or annuities equal to or lower than the SMIG, the individuals concerned are exempt from paying these contributions.

The social security contribution rate is 35%, with 25,5% paid by the employer and 9% by the worker:

Branches	**Employer's share** %	**Employee's share** %	**Social welfare fund's share** %	**Total** %
Social Insurance	11,50	1,50		13
Workplace accidents and occupational diseases	1,25	-		1,25
Retirement	11	6,75	0,50	18,25
Unemployment insurance	1	0,50		1,50
Early retirement	0,25	0,25		0,50
Social housing fund (FNPOS)	0,50	-		0,50
Total	**25,5**	**9**	**0,50**	**35**

2.4.2. Payment

The payment of social security contributions is the responsibility of the employer. The employer must withhold the worker's share of contributions when paying each salary. The worker cannot object to this. Social security contributions are paid in a single payment by the employer to the social security organization to which the employer is territorially affiliated:

- Within 30 days following the end of each calendar quarter, if the employer employs fewer than 10 workers;
- Within 30 days following the end of each month, if the employer employs more than 9 workers.

Failure to make the social security contributions on time results in a 5% increase applied to the amount of the contributions due. The principal contributions are subject to a 1% increase for each additional month of delay.

2.4.3. Control

Any employer may be subject to an inspection carried out by duly sworn agents of the social security organizations accredited by the minister responsible for social security. These agents take an oath before the court. Employers and workers are required to present and provide the inspection agents with any documents or information necessary for the inspection. The inspection agents are bound by professional secrecy.

2.4.4. Disputes

Law No. 08-08 of February 23, 2008, amended and supplemented, concerning disputes in social security matters, aims to set:

- The procedures for resolving social security disputes;
- The procedures for the forced collection of contributions and other social security debts;
- Appeals against third parties and employers.

This law distinguishes three types of disputes:

- General Disputes, which concern all disputes other than those related to the medical condition of social security beneficiaries and those related to technical disputes;
- Medical Disputes, which concern disputes related to the medical condition of insured individuals and their dependents;
- Technical Disputes, which concern all medical activities related to social security.

a) General disputes

- Failure to register;
- Failure to declare the affiliation of one or more employees with the competent social security fund;
- Failure to pay contributions, which may lead to criminal prosecution;
- Failure to pay contributions within the time limits set by law, resulting in increases and significant late penalties;
- Dispute over the declared salary amount used as the base for calculating the contribution base;
- Failure to report a workplace accident or occupational disease.

The principle set out by the law stipulates that all disputes related to general litigation must first be brought before the relevant commissions for appeals before being taken to the competent court (social court, in this case).

b) Wilaya appeals commission

This commission rules as the first and last instance regarding requests for the waiver of penalties and surcharges. It must be seized, under penalty of inadmissibility:

- Within 2 months following the contested notification, if it relates to social security benefits;
- Within 1 month for disputes regarding affiliation, contribution collection, surcharges, and late payment penalties.

The submission is made:

- Either by registered letter with acknowledgment of receipt,
- Or by submitting a request at the commission's secretariat, receiving a receipt.

This commission is also competent to examine appeals against unfavorable decisions regarding the granting of the reduced employer contribution rate for social security contributions (see Art. 11, Executive Decree No. 10-71 of January 31, 2010).

c) National pre-appeal commission

This commission can be appealed against decisions made by the wilaya commission for all disputes other than those related to late payment penalties and surcharges.

The deadlines and submission forms for this commission are identical to those mentioned above for the wilaya commission. It must rule within 30 days from the date of submission. The reports from these commissions are sent to the relevant authority within 15 days.

If the dispute persists and all previous appeal avenues have been exhausted, the case is then brought before the social court. The court must be seized within 1 month following the notification of the decision to the employer or within 3 months of the appeal request remaining unanswered.

Regardless of these procedures, the social security organization remains a privileged creditor and acts against the duly notified employer:

– Either through the "role" procedure;
– Or through the "coercion" procedure;
– Or through other procedures, such as garnishment, property seizure, etc.

The "role" procedure is initiated by the director of the social security organization, who signs the amount of the sums claimed. This document is endorsed and then made enforceable by the wali and transmitted to the direct tax collector, who executes it as if it were a tax collection.

The "coercion" procedure is also initiated by the director of the social security organization, then endorsed and signed by the president of the social court. This coercion is notified by the sworn control agent and is executed as a judgment.

d) Medical expertise

Disputes related to medical litigation require medical expertise. The request for medical expertise must be made by the insured party within 15 days from the date of receipt of the notification from the social security organization.

The request for medical expertise must be in writing and accompanied by a report from the treating physician. The request should be sent by registered letter with acknowledgment of receipt or deposited with the services of the social security organization against a receipt of deposit.

The social security organization must, within 8 days from the date of the request's submission, begin the medical expertise procedure by proposing at least 3 expert doctors from the list of doctors established by the Ministry of Health and the Ministry of Social Security. If this is not done, the organization is bound by the opinion of the treating physician.

The insured party must accept or refuse the proposed expert doctors within 8 days, or they will lose their right to medical expertise. If the insured party does not respond, they are bound to accept the expert designated by the social security organization.

The social security organization must notify the insured party of the results of the medical expertise report within 10 days of receiving it.

The insured party loses their right to medical expertise if they refuse, without justification, to respond to the expert's invitations.

The fees of the expert doctors designated to carry out the expertise are covered by the social security organization, unless the expert physician certifies that the insured party's request is manifestly unfounded. In such cases, the fees are the responsibility of the insured party.

e) Technical disputes with a medical nature

A technical dispute with a medical nature refers to disputes arising between social security organizations and healthcare providers concerning the professional activities of doctors, pharmacists, dentists, and medical auxiliaries regarding the nature of treatment and stays in hospitals or clinics.

A technical commission with a medical nature is created within the Ministry of Social Security, composed equally of:

– Doctors from the Ministry of Health;
– Doctors from the social security organization;
– Doctors from the Medical Ethics Council.

Without prejudice to the provisions of the applicable legislation and regulations, the technical commission with a medical nature is responsible for ruling in the first and last instance on cost overruns that have led to additional expenses for the social security organization.

The technical commission is authorized to take any measure necessary to establish the facts, including designating one or more experts and conducting any investigation deemed necessary, including hearing the concerned practitioner.

The decisions of the technical commission are notified to the social security organization, the Ministry of Health, and the National Medical Ethics Council.

f) Garnishment and deductions from postal and bank accounts

The social security creditor organization may enforce garnishment on the debtor's postal current accounts and bank accounts, up to the amount owed to it.

The garnishment is notified to the banks, financial institutions, and "Algérie Poste" represented by the National Center for Postal Checks, by registered mail with acknowledgment of receipt.

To collect the amounts due, the director of the creditor social security organization may enforce garnishment on the movable property or cash belonging to the debtor, in the hands of a third-party holder, in accordance with the provisions of the Civil Procedure Code.

Banks and financial institutions are required to demand from applicants for loans a certificate of updated contributions issued by the competent social security organizations.

If applicable, the lending institution is required to make the deduction of the amounts owed to the creditor social security organization and transfer them to the said organization.

2.5. National social security fund for non-salaried workers (CASNOS)

The National social security fund for non-salaried workers (CASNOS), established by Executive Decree No. 92-07 of January 4, 1992 (as amended and supplemented), is responsible for the social protection of non-salaried professional categories, which include, among others, merchants, artisans, industrialists, farmers, and members of liberal professions, etc.

Pursuant to Executive Decree No. 15-289 (as amended and supplemented) related to the social security of non-salaried persons exercising an activity for their own account, the social security contribution of non-salaried individuals is based on an annual assessment declared and substantiated by fiscal or accounting documents (cf. Art. 1, "Art. 14", Execu-

tive Decree No. 24-49 of January 13, 2024), in accordance with the applicable legislation, no later than March 1 of the considered year.

The contribution base cannot be less than the annual reference salary and cannot exceed a ceiling of 20 times the annual reference salary.

Regarding the contribution rate, it is set at 15% of the aforementioned contribution base.

The base used to calculate the social security contributions for the year in question, for those subject to the real regime, is equal to the operating income, which is the ordinary result before tax, for the closed fiscal year declared in the previous year.

However, when the operating income cannot be determined, particularly for those subject to the lump-sum taxation regime, the determination of the contribution base, for social security purposes, is done by applying the following percentages to the taxable turnover from the previous fiscal year:

– 25% of the taxable turnover for those engaged in the production and sale of goods;
– 35% of the taxable turnover for those engaged in the provision of services.

(cf. Art. 1, "Art. 14", Executive Decree No. 24-49 of January 13, 2024).

3. Independent consultant and employment contract

There are no specific provisions for independent consultants in the labor laws. An independent consultant is an expert in a specific field who provides services outside the employment contract. The consultant can be either an individual or a legal entity.

– **If the consultant is of Algerian nationality,** they are paid as such, and the organization that hires them deducts income tax at a rate of 15%.
– **If the consultant is of foreign nationality and non-resident,** a withholding tax of 30% is deducted by the employer or an agreement may apply based on the tax treaty with the consultant's country of residence.
– **If the consultant is a resident,** they are treated like the Algerian consultant. They are subject to the same rights and obligations, depending on the form in which they exercise their profession, provided they have obtained their residence permit and establishment authorization.

4. Expatriate status

4.1. Conditions for entry, stay, and movement of foreigners

The conditions for the entry, stay, and movement of foreigners in Algeria are governed by Law No. 08-11 of June 25, 2008 (subject to international conventions or reciprocity agreements).

a) General provisions

An "foreigner" is defined as anyone who has a nationality other than Algerian or who does not have any nationality.

They must have a valid travel document and visa, as well as, if applicable, the necessary administrative authorizations. The minimum validity for the travel document required is 6 months.

The foreigner must leave the Algerian territory once the validity of their visa, resident card, or the legally authorized stay expires. The resident foreigner must return their resident card to the Wilaya (local authority) that issued it.

b) Conditions for entry and exit of foreigners

Subject to international agreements ratified by Algeria regarding refugees and stateless individuals, any foreigner arriving in Algeria must present themselves to the competent authorities at border posts, carrying a passport issued by their country of citizenship or any other valid travel document recognized by Algerian authorities, accompanied, if required, by the visa issued by the competent authorities and a health certificate, according to international health regulations.

The maximum validity of the consular visa allowing entry to Algeria is 2 years. The maximum stay allowed upon each entry into Algeria is 90 days.

c) Conditions for stay of non-residents

A foreigner is considered a non-resident if they are in transit through Algeria or if they are staying for a period not exceeding 90 days, without intending to establish residence or carry out professional or salaried activities.

Foreigners exempt from consular visas include:

- A foreigner aboard a ship docking at an Algerian port.
- A foreigner working on a ship docking at an Algerian port, on shore leave, according to maritime conventions ratified by Algeria.
- A foreigner transiting by air through Algeria.
- A foreigner part of the crew of an aircraft making a stop at an Algerian airport.
- Foreigners benefiting from provisions of international conventions or reciprocity agreements.

A transit visa valid for a maximum of 7 days can be issued to a foreigner transiting through Algeria, provided they hold a visa for the destination country and can prove sufficient means of subsistence for the duration of the transit.

d) Conditions for stay of resident foreigners

A foreigner who wishes to establish permanent residence in Algeria must be authorized by obtaining a residence card issued by the Wilaya of their place of residence, valid for 2 years.

Unless there are reciprocity agreements, the residence card is required for individuals over the age of 18.

A foreign worker receives a residence card whose validity cannot exceed the validity of the work permit.

A 10-year residence card may be issued to a foreign national who has legally resided in Algeria for a continuous period of 7 years or more, as well as to their children who are living with them and are over 18 years old.

The renewal of the residence card can be granted to students and foreign workers based on necessary legal documents.

Any foreigner wishing to reside in Algeria to engage in salaried work cannot obtain a residence card unless they hold one of the following:

- A work permit;
- A temporary work authorization;
- A foreign worker employment declaration for foreigners not subject to a work permit.

Any foreigner wishing to extend their stay in Algeria beyond the duration specified by their visa, to establish habitual residence, must apply for a residence card 15 days before the visa expires.

A foreign resident who remains outside Algerian territory for an uninterrupted period of one year loses their resident status.

The residence permit may be revoked at any time if it is definitively established that the holder no longer meets one or more of the conditions required for its issuance.

It may also be withdrawn if the foreign resident engages in activities that, in the view of the relevant authorities, are contrary to public morality, public order, or national interests, or if such activities have led to a conviction.

In such cases, the foreign national is subject to immediate expulsion following the completion of administrative or judicial procedures.

e) Conditions for movement of foreigners

A foreigner who is regularly established in Algeria may move freely within the country, provided they do not disturb public order and comply with the law.

If a foreigner changes their place of residence for a period exceeding 6 months, they must declare it to the police or gendarmerie.

f) Declaration of employment and housing of foreigners

Any individual or entity employing a foreigner must declare it within 48 hours to the relevant services of the Ministry of Employment or the commune of recruitment. The same formality must be carried out upon termination of employment.

Any individual or entity renting accommodation to a foreigner must declare the rental to the police, gendarmerie, or commune within 24 hours.

Foreign artists wishing to perform in Algeria must follow the provisions of Executive Decree No. 22-313 of September 12, 2022.

g) Expulsion and deportation

A foreigner may be expelled from Algeria by an order from the Minister of the Interior under the following circumstances:

- If the authorities deem their presence to be a threat to public order and/or state security.
- If they have been convicted by a final judgment for a crime or offense.
- If they fail to leave the country within the authorized time, unless they provide evidence of a force majeure reason.

The expulsion decision will be notified to the foreigner. Depending on the severity of the charges, they may be given a period of 48 hours to 15 days from the notification of the expulsion order.

A foreigner who has been deported may contact their diplomatic or consular representation and, if necessary, receive assistance from a lawyer or interpreter.

A foreigner who has been expelled and proves they cannot leave the country will be subject to residence restrictions until the expulsion can be carried out.

h) Criminal provisions

A fine of 5,000 to 20,000 DA is imposed on any person hosting a foreigner who fails to make the required declaration for a professional or ordinary host who accommodates a foreigner.

A fine of 5,000 to 20,000 DA is imposed on any foreigner who refuses to present the required documents or proof of their situation.

A fine of 2,000 to 15,000 DA is imposed on any foreigner who fails to declare a change in their effective residence.

Any foreigner who evades the execution of an expulsion order or a border-repatriation order, or who, after being expelled or repatriated to the border, reenters Algeria without authorization, is punished with imprisonment from 2 to 5 years, unless they can prove that they cannot return to their country of origin or travel to a third country, in accordance with international conventions governing the status of refugees and stateless persons.

Anyone who, directly or indirectly, facilitates or attempts to facilitate the illegal entry, circulation, stay, or exit of a foreigner on Algerian territory is punished with imprisonment from 2 to 5 years and a fine from 60,000 to 200,000 DA. The act of contracting a mixed marriage solely to obtain or assist in obtaining a residence card, or to acquire or assist in acquiring Algerian nationality, is punished with imprisonment from 2 to 5 years and a fine from 50,000 to 500,000 DA.

The same penalties apply to a foreigner who contracts a marriage for the same purpose with a foreigner who is a resident.

If the offense is committed by an organized group, the sentence is increased to 10 years of imprisonment and a fine from 500,000 to 2 million DA. The offenders also face confiscation of all or part of their property.

Legal entities can be held criminally liable in accordance with the provisions of the Penal Code.

4.2. Conditions of recruitment

a) In the economic sector

An employer may recruit foreign workers when there is no available qualified national workforce of the same level.

To work and stay in Algeria, a foreign worker must obtain a work permit or temporary work authorization and a residence card, with the presentation of a work contract. The maximum duration of the work permit is 2 years, renewable. The application for the residence card must be submitted to the relevant police station, generally accompanied by copies of the passport, work contract, proof of accommodation, photos, and tax stamps. The residence card will be valid for the same duration as the work contract.

The employer is required to inform the relevant employment services within 48 hours if the contract is terminated. The employer must also submit a nominative list of foreign personnel during the first quarter of each year.

b) In public services

State services and local authorities may recruit foreign personnel on a contractual basis. This mainly concerns high-level teachers and trainers. The initial contract is for a maximum of 2 years and may be renewed several times for a maximum duration of 1 year.

The recruited personnel are subject to Algerian authorities while performing their duties and may not engage in political activities. They enjoy the same rights and obligations as their Algerian counterparts.

c) Criminal provisions

An employer who illegally employs foreign workers subject to a work permit or temporary work authorization is fined between 10,000 and 20,000 DA. Illegal employment of foreign workers includes:

– An employee without valid work permits;
– An employee with an expired permit or employed in a position other than that mentioned on the work permit.

An employer who fails to submit the termination notice or the annual nominative list of foreign personnel to the relevant employment services is fined between 5,000 and 10,000 DA. This fine is doubled in case of a repeat offense.

4.3. Taxation

According to Algerian tax legislation, the following are considered to have their tax domicile in Algeria:

– Individuals who own a home as owners or usufructuaries, or who are tenants when, in the latter case, the rental agreement is concluded either as a single contract or as successive agreements for a continuous period of at least one year.
– Individuals who have either their primary place of residence or the center of their main interests in Algeria.
– Individuals who carry out a salaried or non-salaried professional activity in Algeria.

Agents of the State who perform their duties or are on assignment in a foreign country and who are not subject to global income tax on all of their income in that country are also considered to have their tax domicile in Algeria.

The regulations also state that individuals, whether of Algerian or foreign nationality, who, whether or not they have their tax domicile in Algeria, earn profits or income that are subject to taxation in Algeria under a tax treaty concluded with other countries, are also liable for income tax.

4.4. Repatriation of salaries

A foreign worker employed by a resident company producing goods or services may transfer part of their salary, provided they hold a work permit or temporary work authorization and a duly established work contract, as required by the Directorate General of Public Service and/or the Ministry of Labor.

The salary is divided into transferable and non-transferable parts, which is agreed upon between the employer and the foreign worker. The transfer of the salary is done via a bank or a licensed financial institution, or through the postal check center, where the file must be domiciled.

The transfer request is submitted by the employee and signed by the employer, following the prescribed regulatory form. The transfer can be processed through any approved post office or bank branch.

Under the provisions of Article 182 ter of the CID, transfers of funds to individuals or entities that are not residents in Algeria, regardless of the reason for the transfer, must be declared in advance to the relevant local tax authorities. Salary repatriations are subject to this obligation.

- **Exceptions**

The exceptions to the repatriation requirement include:

– Foreign workers governed by an agreement between their government or an international organization. They are subject to the specific rules established in the agreement.

– Foreign workers employed by foreign companies operating in Algeria under employment contracts or service agreements. They are subject to the conditions of the contract.

– Foreign workers who are not employees, on short-term assignments, and paid on a lump-sum or per-task basis. They are subject to the transfer conditions set by the contract.

– Foreign workers employed as temporary staff and making transfers for other activities.

– Foreign workers who are shareholders in Algerian companies producing goods or services.

4.5. Social security agreements

Outside of agreements, expatriate employees are subject to Algerian legislation, and their employers are required to pay social contributions just like local employees.

Agreements have been signed with Belgium, Tunisia, Romania, France, China, and, since 2018, with Mali. These agreements allow seconded employees to remain affiliated with the social security fund they were under for a specific period defined by the agreements. For example, under the agreement with France, seconded employees remain affiliated with the social security fund they were with before their secondment for up to 3 years, which can be renewed once.

The social security contributions owed are paid to the French social security fund. A certificate of continued contributions is issued by the social security fund of the home country to justify the non-payment to the Algerian social security fund.

CHAPTER 13

Accounting system

The accounting system applicable in Algeria until the end of 2009 was defined by the National Accounting Plan, published in the Official Journal on May 9, 1975 (hereinafter abbreviated as PCN 75). In order to meet the needs and expectations resulting from the market opening that Algeria has experienced in recent years, an accounting and financial system has been developed (hereinafter abbreviated as SCF).

On January 1, 2010, the SCF was developed by the Algerian National Accounting Council (CNC) in collaboration with Algerian professionals and the French National Accounting Council.

This system includes several elements:

- A set of accounting standards that are much more detailed than before, heavily inspired by IFRS.
- A modernized chart of accounts, which strongly converges with the French "PCG" chart of accounts while maintaining certain Algerian specificities;
- The implementation of a number of principles or formal obligations, particularly in terms of consolidation and financial statement disclosures.

The SCF is therefore not merely an adaptation of IFRS in Algeria but has the potential to bring about a profound change in accounting practices, business organization, and commercial practices.

It indeed introduces the following needs and possibilities:

- Introduction of "fair value" with recurring revaluation possibilities;
- Organization of greater financial transparency for companies and corporate groups, with a particular focus on the concept of a true and fair view;
- Emphasis on the importance of internal and external account control.

1. Financial statements to be produced

The SCF refers to the preparation of "financial statements" (F/S), as defined in international rules and practices. These financial statements (F/S), which form a whole, include the following five components of the SCF F/S:

- Balance sheet;
- Income statement;
- Cash flow statement;
- Statement of changes in equity;
- Appendix specifying accounting rules and methods, account details, and off-balance sheet items.

The content and presentation of the statements are not strictly imposed according to the standard. The texts only define their minimum requirements (for example, the list of minimum information to include in the income statement, balance sheet, etc.).

To avoid disrupting businesses nevertheless, sample tables are suggested in the annexes of the detailed standard, tables which it will be possible to adapt. These tables are analyzed in the following paragraph. It is stipulated by the text that the mention of comparative data is imperative.

The income statement may be presented by nature (see above), but also by function (cost of sales, commercial costs, etc.), exactly as in IFRS.

Regarding the cash flow statement, there is an option between the "direct" model (based on operating and financial flows) and the "indirect" model (which starts from the accounting result and cash flow).

Finally, the SCF provides for a true annex, very similar to IFRS requirements, including a presentation of the main accounting rules applied, information on commitments, and the breakdown of significant items with explanations.

2. Balance sheet format

With the SCF, the investor will return to presentation standards that are much more familiar, directly derived from IFRS, and focused on the distinction between current/non-current items (in the same definition as in IFRS, meaning more or less one year originally).

The assets in the SCF balance sheet must show:

- Non-current assets, including fixed assets (intangible, tangible, financial), but also deferred tax assets and non-current financial assets;
- Current assets, including inventories, receivables and related items, and cash (the latter including current financial assets).

It may be presented as follows (model suggested in the standard):

ASSETS	N. Gross	N. Amort-Prov.	N. Net	N-1. Net
NON-CURRENT ASSETS				
Goodwill - positive or negative				
Intangible fixed assets				
Tangible fixed assets				
Land				
Buildings				
Other intangible assets				
Concession assets				
Assets in progress				
Financial assets				
Equity method investments				
Other investments and related receivables				
Other equity in fixed assets				
Loans and other non-current financial assets				
Deferred tax assets				
TOTAL NON-CURRENT ASSETS				
CURRENT ASSETS				
Inventories and stocks in progress				
Receivables and similar				
Clients				
Other debtors				
Taxes and similar				
Other receivables and equivalent				
Cash and cash equivalents				
Investments and other current financial assets				
Treasury				
TOTAL CURRENT ASSETS				
TOTAL ASSETS				

The liabilities section of the balance sheet must reflect the distinction between:

- **Equity** (including the net income for the period and excluding provisions);
- **Non-current liabilities** (financial debts, deferred taxes, provisions, and other non-current liabilities);
- **Current liabilities** (trade payables, taxes, other payables, etc.).

It may be presented as follows (model suggested in the standard):

LIABILITIES	N	N-1
EQUITY Issued capital Uncalled capital Additional paid-in capital and reserves - Consolidated reserves (1) Revaluation differences Equivalence difference (1) Net income 1 - Group share of net income (1) Other equity - Retained earnings		
Consolidating company's share (1)		
Minority share (1)		
TOTAL EQUITY I		
NON-CURRENT LIABILITIES Loans and financial debts Taxes (deferred and provisioned) Other non-current liabilities Provisions and deferred income		
TOTAL NON-CURRENT LIABILITIES II		
CURRENT LIABILITIES Suppliers and related accounts Taxes (deferred and provisioned) Other non-current liabilities Treasury liabilities		
TOTAL CURRENT LIABILITIES III		
TOTAL LIABILITIES		

(1) To be used only for the presentation of consolidated financial statements.

3. Income statement format

For the income statement, companies have the option to present it either by nature or by function (see below). The proposed presentation by nature is inspired both by the current French format (as the SCF results from the collaboration between the Algerian CNC and its French counterpart) and by the IFRS presentation. It will successively display:

- The production for the fiscal year (sales, stored production, and capitalized production).
- The added value (after deducting consumption of goods and services).
- The gross operating surplus (similar to the Anglo-Saxon EBITDA).
- An operating result (after depreciation, impairment, and provisions).

– A financial result (separate from operating income).
– A gross and net ordinary result (after tax).
– An extraordinary result (i.e., an exceptional result, defined much more restrictively than before).
– A final net result.

The indicative model provided in the standard is as follows:

	N	N-1
Turnover		
Variation in inventories of finished goods and goods in progress		
Capitalized production		
Operating subsidies		
I- PRODUCTION OF THE FINANCIAL YEAR		
Consumed purchases		
External services and other consumption		
II- SERVICE CONSUMPTION		
III- OPERATING VALUE ADDED (I - II)		
Personnel expenses		
Taxes and similar payments		
IV- GROSS OPERATING SURPLUS		
Other operating income		
Other operating expenses		
Depreciation, impairment and provisions		
Reversal of loss of value and provisions		
V- OPERATING INCOME		
Financial income		
Financial expenses		
VI- NET FINANCIAL INCOME		
VII- ORDINARY INCOME BEFORE TAX (V + VI)		
Current income taxes		
Deferred taxes (Variations) on ordinary income		
TOTAL INCOME FROM ORDINARY ACTIVITIES		
TOTAL EXPENSES FROM ORDINARY ACTIVITIES		
VIII- NET INCOME FROM ORDINARY ACTIVITIES		
Extraordinary items (income) (to be specified)		
Extraordinary items (expenses) (to be specified)		
IX - EXTRAORDINARY INCOME		
X- NET INCOME OF THE FINANCIAL YEAR		
Share in the net results of equity-accounted companies (1)		
XI- CONSOLIDATED NET INCOME (1)		
Minority share (1)		
Group share (1)		

(1) to be used only for the presentation of consolidated financial statements.

In the presentation by function (of Anglo-Saxon origin), the entire process of generating the operating result is presented according to its own logic:

– Sales and cost of sales define the gross margin.
– After deducting commercial and administrative costs, the operating result is reached.
– A breakdown of the items by nature (personnel, provisions, etc.) must be provided, moreover.

The income statement model by function recommended by the standard is as follows:

	N	N-1
Turnover		
Cost of sales		
GROSS MARGIN		
Other operating income		
Commercial costs		
Administrative expenses		
Other operating expenses		
OPERATING INCOME		
Provide details of expenses by type (Personnel costs, depreciation)		
Financial income		
Financial expenses		
ORDINARY INCOME BEFORE TAX		
Tax payable on ordinary income		
Deferred taxes on ordinary income (variations)		
NET INCOME FROM ORDINARY ACTIVITIES		
Extraordinary expenses		
Extraordinary income		
NET INCOME OF THE FINANCIAL YEAR		
Share in the net results of equity-accounted companies (1)		
CONSOLIDATED NET INCOME (1)		
Minority share (1)		
Group share (1)		

(1) to be used only for the presentation of consolidated financial statements.

The SCF balance sheet and income statement are complemented by the statement of changes in equity and the cash flow statement. We will not examine them in detail. However, it should be noted that they are, in their definition, very close to the principles and recommendations of the IFRS. As a result, the SCF will facilitate the understanding of accounts by third parties or international investors, who will feel immediately on "familiar ground."

4. Detailed chart of accounts and SCF nomenclature

The SCF nomenclature, both in the CNC project and in the final texts, is very similar to the French PCG, which itself has been partially aligned with IFRS, as shown in the following table:

10 Capital and reserves	**35** Product inventories (intermediate and finished)
11 Retained earnings	**36** Inventories from fixed assets
12 Net income of the financial year	**37** Stocks outside
13 Deferred income and expenses	**38** Inventoried purchases
14	**39** Loss in value on inventories and work-in-progress
15 Provisions for non-current expenses	**40** Suppliers and related accounts
16 Loans and similar debts	**41** Clients and related accounts
17 Debts related to participating interests	**42** Personnel and related accounts
18 Establishment liaison accounts	**43** Social organizations and related accounts
19	**44** State, local authorities and international organizations
20 Intangible fixed assets	**45** Group and associates
21 Tangible fixed assets	**46** Sundry debtors and creditors
22 Concession fixed assets	**47** Suspense or transitory accounts
23 Assets in progress	**48** Deferred income and expenses and current provisions
24	**49** Loss of value on third-party accounts
25	**50** Investment securities
26 Investments and receivables from investments	**51** Banks and similar
27 Other financial fixed assets	**52** Derivative instruments
28 Depreciation of fixed assets	**53** Fund
29 Loss in value of fixed assets	**54** Imprest accounts and letters of credit
30 inventories of goods	**55**
31 Raw materials and supplies	**56**
32 Other supplies	**57**
33 Production of goods in progress	**58** Internal transfers
34 Production of services in progress	**59** Loss in value on current financial assets

For the income statement, the SCF classification is presented as follows:

- Purchases and sales of all kinds are recorded in accounts 60 and 70.
- Accounts 65 and 75 are dedicated to "other expenses" and "other income".
- Financial income and expenses are recorded in accounts 76 and 66, separate from operating in-come.
- Extraordinary income and expenses are recorded in accounts 77 and 67 and are defined restrictively; impairments/reversals are recorded in accounts 68 and 78 as elements of operating income.
- IBS (Income Tax on Profits) is recorded in account 69.

Charge transfers are eliminated since, as in IFRS, transfer entries should be directly posted to the debit or credit of the relevant accounts.

60 Purchases consumed (goods and materials)	**70** Sales (goods, products or services)
61 External services	**72** Stored/unstored production
62 Other external services	**73** Capitalized production
63 Personnel expenses	**74** Operating subsidies
64 Taxes	**75** Other operating income
65 Other operating expenses	**76** Financial income
66 Financial expenses	**77** Extraordinary items (income)
67 Extraordinary items (expenses)	**78** Reversals of provisions and loss in value
68 Depreciation and provisions and loss in value	**79** -
69 Income tax and similar	

5. Main accounting conventions and innovations introduced by the SCF compared to the PCN 75

- **General principles**

At the level of general principles, the SCF remains very conventional while being significantly more precise and developed than the PCN 75. Its general principles are as follows:

– Accrual accounting;
– Going concern;
– Annuality of accounts;
– Independence of financial periods;
– Presentation of accounts in dinars (national currency);
– Materiality;
– Prudence principle;
– Consistency of methods;
– Historical cost (subject to revaluation possibilities or obligations);
– Intangibility of the opening balance sheet;
– Economic substance over legal form;
– No offsetting;
– True and fair view.

- **Main innovations**

The main innovations compared to PCN 75 are as follows:

– Companies will no longer be required to close their accounts on December 31 if the calendar year cycle is incompatible with their activity (this concept will need to be clarified and accepted by the tax authorities…);
– The section on the independence of financial periods introduces the concept of "post-closing events," which is not currently a common notion in Algeria.

Some of these principles are heavily inspired by IFRS and may contradict previous conceptions or practices:

- The true and fair view, with the possibility of departing from a rule if it does not provide a true and fair view.
- The materiality criterion, according to which accounting rules do not apply to insignificant transactions.
- The primacy of economic reality over legal form, suggesting that the true substance of a transaction should be sought before determining its accounting treatment.

In the context of general principles, it is specified that assets/liabilities/expenses/income are recognized when they are probable and can be reliably estimated.

The SCF does not specify what should be done when the probability of occurrence is not settled or when a reliable estimate is not possible. It should be noted that the IFRS specify that, in this situation, there are contingent assets and liabilities, which must be disclosed and described in the notes. This is one of the main substantive differences between the SCF and IFRS.

Finally, the SCF introduces various exceptions with the fair values, realizable values, and discounted values. These rules will affect the fixed assets (Cf. infra), but also the financial assets and liabilities as well as certain operating assets (Cf. supra).

- **Inspiration of IFRS in definitions and recognition criteria**

Beyond the general principles, the SCF clearly draws inspiration from the IFRS in terms of key definitions and fundamental recognition criteria.

Assets are defined as "resources controlled by the enterprise that will produce future economic benefits."

When they have lasting utility (longer than an operating cycle or one year), they are called "non-current." When they are intended to be consumed quickly (within an operating cycle, in less than a year), they are called "current." Similarly, liabilities are defined as "existing obligations whose settlement will result in outflows of resources representing economic benefits."

They will be classified as current or non-current depending on whether they are settled quickly (within an operating cycle, one year) or not initially.

The SCF recalls, without using the established term, that obligations can be "explicit," but also "implicit," meaning they result from common practice, an asserted intention, or the desire to act in a fair manner.

This is an important innovation, as liabilities to be recognized will no longer be limited to contractual or legal obligations but may arise from commitments that the company has voluntarily made or from certain practices. For example, a cement manufacturer who announces that it will carry out certain repairs beyond legal obligations will have to recognize provisions to cover the expenses it has "implicitly" committed to.

Equity is defined as the excess of current and non-current assets over current and non-current liabilities.

The same types of definitions or recognition criteria are found in the revenues and expenses.

Income is the increase in economic benefits, resulting from an increase in assets or a decrease in liabilities – including reversals of provisions. Expenses reflect the opposite (a decrease in economic benefits, with a decrease in assets or an increase in liabilities – including provisions).

6. Rules of organization of the SCF

At the level of social accounting, the SCF recalls the existence of a number of mandatory documents – with no change from previous rules:

– Journal Book or General Journal
– General Ledger
– Inventory Book

These documents must be kept for at least 10 years.

The SCF introduces considerations on computerized accounting, which must ensure sufficient security and reliability (particularly a "trail of revision") and the printing of intelligible documents.

The failure to maintain mandatory documents or the presentation of "unintelligible" financial statements may indeed lead to the "rejection of accounting" in the event of a tax audit.

The SCF also specifies that corporate groups must prepare and publish consolidated financial statements annually, with an exemption for sub-groups (where the obligation applies only to the parent company) and a few exclusions (restrictions on control, subsequent resale, etc.).

In the same logic, the SCF requires the presentation of combined accounts for entities subject to the same decision-making center but not connected by capital or legal ties. However, combined accounts have disappeared in most countries since the implementation of IFRS, which imposes standard consolidation for all controlled entities, with or without capital (through the concept of "special purpose vehicles" or "SPVs").

In any case, these two obligations are relatively new in Algeria, as they are clearly mandatory, and the SCF defines very precisely what consolidation is, how it should be carried out, and suggests a number of adjustments that must be made (leases, deferred taxes).

In Algerian practice, consolidations were often carried out on an optional basis and sometimes consisted more of an aggregation of accounts (without adjustments) rather than a true consolidation (with adjustments). The SCF has the advantage of definitively clarifying their nature, the applicable rules, and their status.

7. Analysis of the main accounting rules or standards introduced by the SCF

7.1. Tangible fixed assets

• General principles

Although it reaffirms the principle of "historical costs," the SCF introduces several exceptions to this notion, which also exist in IFRS:

– Investment properties (not used in operations) may be revalued annually through profit or loss.
– Operating fixed assets may be measured at fair value, with regular updates (the impact of revaluations generally affecting equity).
– The general principle of depreciation disappears or is challenged in these specific cases.

- **"Pre-operating Expenses"**

Pre-operating expenses are generally considered as expenses. An exception is made for interest incurred during the construction period of an asset, which can be directly included in the cost calculation of fixed assets (under the same category).

- **Depreciation methods**

In the SCF, various depreciation methods are allowed (straight-line, declining balance, progressive, and possibly the units-of-production method). Each company is expected to choose the method that best reflects economic reality and the useful life of the asset, without being influenced by tax considerations.

- **Introduction of the component method and dismantling costs**

In the SCF, it is recommended to apply the "component" principle, meaning that assets should be subdivided into sub-assets that are depreciated based on their specific useful life. This approach may have potentially significant impacts for companies, as well as for the tax administration.

The SCF is not limited to "components." Companies must also provision for dismantling or restoration costs and recognize and amortize "counterpart assets."

In a country with significant energy, mining, or basic industries resources, this could have major impacts.

- **Production of the company for itself**

The SCF specifies and defines the conditions for incorporating operating expenses into the "productions of the company for itself." The rules are quite restrictive, particularly concerning fixed and indirect costs. The SCF allows for the inclusion of financial interest incurred during the construction period in the capitalized production. It is worth noting that a specific account for "capitalized production" has been maintained in the SCF

- **Depreciation of assets**

One of the major innovations of the SCF comes from the principle of "impairment of assets." As in IFRS, all "long-term assets" (goodwill, intangible and tangible assets) must undergo annual impairment tests once a "impairment indicator" has been identified.

These tests will be implemented at the level of "cash-generating units," as defined in IFRS, and in comparable ways (referencing market value or a value in use defined as the sum of discounted future cash flows).

In practice, the implementation of "impairment" tests could have significant effects within certain struggling industries or those experiencing a certain level of underperformance.

- **Revaluations**

Revaluations can be carried out on a regular basis under the SCF, as in IFRS.

There are, in fact, two options that companies may choose from:

– For investment properties (properties not used/not necessary for operations).
– For tangible fixed assets in general.

For "investment properties," companies may choose to recognize them at fair value at each closing. Since the property is considered an "investment," the impact will be recognized in the income statement for the year.

For operating assets, companies will have the same option. However, the impacts will generally be recognized in a revaluation account and will not normally affect the result

(except for certain variations or impairments). The idea is that capital gains on an operating asset (for example, a factory) remain unrealized and are not realizable in the short term. They will therefore be recognized, but in a regularization account rather than in the result.

- **Impacts for the average Algerian company**

Upon completion of this brief review, it is not certain that the fixed assets of the average Algerian company will be significantly impacted by the standards, unlike what happened in Europe, where few companies have so far opted for systematic revaluations and/or recognized very heavy adjustments on components.

In the long term, most companies will be impacted in terms of accounting for borrowing costs and implementing economic measures (and no longer fiscal ones). The other topics should only affect a limited number of companies, but they could still have very significant impacts on these companies, particularly:

– The possibilities for revaluation in companies with significant land and real estate assets (especially if they can avoid taxation and record only a deferred tax).
– The components in large "turnkey" projects.
– The provisions for restoration in extractive or polluting industries.
– The "impairment tests" in companies suffering from low activity.

7.2. Non-current financial assets

- **Four distinct categories of assets**

Non-current financial assets will, as in IFRS, be classified into four categories:

– Participations (securities or receivables): assets that provide influence or control over another company to their owner.
– Securities held for portfolio activity (SHPAs): assets that will be held for more than a year, but without control or involvement in the management of the considered company.
– Other securities held for investment: securities representing equity stakes or long-term investments that the entity has the ability, intention, or obligation to hold until maturity.
– Loans or receivables from other entities: amounts that the company does not intend or is not able to recover in less than a year.

- **Differentiated treatments**

At the origin (acquisition or entry into assets), the assets of the four categories will be recognized at their "cost."

Subsequently, these assets will, in principle, be evaluated at "amortized cost" (original cost minus principal repayments).

By exception, assets held with the sole purpose of a subsequent sale and TIAP (securities held for portfolio activity) will be valued at fair value (based on market value or an estimate). Value differences will be recognized in equity under a specific heading (and sometimes in the income statement).

Here, we find the same inspiration as for "investment properties": investment assets should, in principle, have their balance sheet value reflect the evolution of the underlying markets.

7.3. Stocks

• Stocks related to fixed assets

For historical reasons, many Algerian companies have large stocks of spare parts or replacement parts (SP), usually new and considered to be of high value, and therefore, are rarely depreciated.

Indeed, once the spare parts are linked to certain fixed assets and are intended to be used for more than one accounting period, they will need to be capitalized and amortized.

In fact, they will lose value and cannot be kept indefinitely on the balance sheet at their original value.

• Valuation of inventories

The SCF specifies how to evaluate inventory.

It is specifically stated that the valuation includes "all costs incurred to bring the inventory to its present location and condition":

- Excluding charges related to underutilization of capacity.
- Including certain financial costs, if applicable.
- Including only administrative costs directly attributable to the inventory.
- Excluding, de facto, sales expenses and administrative costs not directly attributable.
- Therefore, within the framework of the SCF, charges must be more restrictively allocated, eliminating under-activity. As a result, inventory values may, in some cases, be significantly reduced.

Once entered into inventory, goods must be tracked using FIFO or the weighted average cost (CMUP). Other methods, such as LIFO or DPA, are generally prohibited.

• Depreciation of stocks

The depreciations are defined by the SCF, in a pure IFRS logic, as the comparison between the original value and the "net realizable value."

The latter is defined as the selling price less the costs to be incurred (distribution costs, selling costs, etc.). In practice, products with a negative margin will therefore need to be systematically provisioned.

Note that no special provisions apply to slow-moving stocks (except for spare parts, see below). However, if certain products pose a problem, they will generally need to be depreciated based on the criterion of their net realizable value (i.e., a price that will allow these products to be sold within a "normal" period, which is usually low).

7.4. Trade receivables and operating receivables

• Absence of specific regulations

The SCF does not contain specific texts on customer receivables or operating receivables. By default, this refers to the general principles of revenue recognition and depreciation.

• Innovations compared to previous practices

Even though there are no extensive specific developments in the SCF, considering the general principles will help address a number of practical cases. Thus, old and unpaid receivables will need to be subject to various measures. A current receivable can only be justified if recovery can be expected within a period consistent with the business cycle. Otherwise, it must be depreciated or adjusted, or even "derecognized."

7.5. Subsidies

The SCF adopts the classic distinction in IFRS between operating subsidies and investment subsidies, which are recognized respectively, immediately or progressively. It does not introduce any significant changes compared to previous texts.

7.6. Provisions for risks and charges

The SCF defines provisions as a liability with uncertain timing or amounts, which can be estimated but remain uncertain. Operational losses are excluded. The amount to be provisioned corresponds to the "best estimate of the outflow that will be made."

These few principles have the advantage of reminding us that:

– Risks that are sufficiently certain must be provisioned.
– It is not necessary to provision everything, but only what is reasonably required to be paid.

In practice, Algerian companies sometimes tended to:

– Either not provision anything.
– or provision everything.

In the special evaluation methods, the benefits granted to employees are addressed. It is specified that these benefits (such as extra-legal pensions, retirement severance pay, etc.) must be provisioned based on the present value of the existing obligations. The text is brief, but it implicitly refers to IAS 19, which precisely defines the methods for determining and calculating these obligations.

7.7. Loans and financial liabilities

• Generalities and definitions

Financial liabilities are treated symmetrically to financial assets. The initial recognition is made at cost, which is equal to the net consideration received, after deducting ancillary costs (such as loan fees).

Subsequently, these liabilities are recognized at amortized cost (i.e., after deducting the capital repayments made). Liabilities held for trading purposes are valued at their fair value. Of course, unrealized exchange losses must be recognized and recorded in a specific financial expense account.

• Interest

The loan issuance fees, which are deducted from the debt (see above), are amortized actuarially (in other words, they contribute to the overall effective interest rate of the loan). Interest incurred during the construction of an asset requiring a long preparation period can be capitalized, up to the amount of interest that could have been avoided if the construction had not taken place. These two provisions, in line with IFRS, differ from current practices in Algeria:

– The loan issuance fees were previously capitalized and amortized on a straight-line basis (instead of being deducted from the debt and amortized actuarially).
– The capitalization of interest on an asset was possible in "intangible" and separately from the financed asset, but it had to be amortized over 5 years (with the SCF, it becomes part of the asset and is amortized accordingly, possibly over more or less than 5 years).

- **Discounting of certain debts**

A very subtle but important provision is mentioned in the SCF: "Transactions for which a payment deferral is granted or obtained at conditions below market terms are recorded at their fair value."

This provision is inspired by IFRS standards, according to which a loan at a rate significantly lower or higher than the market rate must be recognized at a value different from its nominal value.

7.8. Long-term contracts

The SCF specifically addresses long-term contracts. It first emphasizes the need for progress monitoring. This monitoring is not described in detail, but evidently, the SCF refers to IFRS and the IAS 11 standard, which deals with this subject.

Indeed, as in IFRS, completion is only possible if the result of the contract cannot be reliably estimated. The text also reiterates the necessity to immediately recognize the total amount of losses to completion when the total contract costs exceed the total revenues.

7.9. Leasing contracts and deferred taxes

- **Definitions**

The SCF provides, in the section "Particular Modalities," for the recognition of leases and deferred taxes in the financial statements.

For deferred taxes, it is specified that "at the closing, deferred taxes are recognized for all temporary differences that will likely lead to a tax charge or income in the future." This refers, for example, to provisions that have not yet been deducted or to carryforward losses that the company hopes to use.

The recognition of deferred taxes in the financial statements is a major innovation in Algeria. It is common and has long been practiced in Anglo-Saxon countries (for example, in England). However, it is much less common in Mediterranean countries (Algeria, Spain, France, Italy).

- **Characterization of leasing contracts and adjustments**

For lease contracts, the SCF sets characterization rules that are consistent with those of IFRS (and there are five of them):

– Transfer of ownership at the end.
– Bargain option (an attractive price for the final option from the beginning);
– Lease duration covering the asset's useful life.
– Sum of minimum payments discounted close to the fair value of the asset.
– Specificity of the asset.

The required adjustments are in line with international practice:

– The asset is capitalized by the lessee at its fair value.
– A liability is recognized for the same amount at the outset.
– The rent is canceled.
– Financial expenses and depreciation replace it.
– The difference between the canceled rent and the financial charges is treated as a principal repayment and deducted from the liability.

7.10. Consolidation rules, developments on goodwill, concessions

A whole section of the SCF is dedicated to explaining the rules of consolidation, goodwill, and concessions.

In this presentation, we will not go into detail about these topics. We will simply note that, overall, they follow the provisions applicable in international accounts and IFRS.

As for concessions, whose treatment is not fixed under IFRS—rather, it is the subject of extensive debate between Latin countries that are major users of concessions (France, Spain, Italy) and Anglo-Saxon countries (England, Germany)—the SCF suggests the "Latin" approach. This involves recognizing assets on the books of the concessionaire and establishing provisions for renewal.

CHAPTER 14

Tax system

1. Taxation of natural persons

1.1. Taxable persons

The following are considered taxable natural persons in the fiscal sense: individuals engaged in a professional or commercial activity, partners in partnerships, civil companies, and members of joint ventures who are indefinitely and jointly liable for the company's debts. This taxation applies to both resident and non-resident individuals.

1.2. Residents and non-residents of Algeria

Under the Direct Tax Code and subject to the provisions of bilateral tax treaties to which Algeria is a party, a person is considered to have their tax domicile in Algeria if they meet any of the conditions set forth by the applicable regulations (as described in section 4.3 Taxation).

The principle is that Algerian or foreign nationals who have their tax domicile in Algeria, in accordance with the above provisions, are subject to Global Income Tax (IRG) on their total income from both Algerian and foreign sources (the concept of worldwide income). Consequently, under Algerian law, they are subject to an unlimited tax obligation.

Individuals whose tax domicile is established outside Algeria are liable for IRG only on their income from Algerian sources. Under Algerian law, they are subject to a limited tax obligation.

- **Domestic law**

To determine tax domicile, the Direct Tax Code and related taxes provide three alternative criteria mentioned earlier. Thus, individuals are considered tax residents in Algeria if they own, have usufruct rights over, or rent a dwelling there. If not, they are considered residents if their main place of stay, or the principal place of interests is in Algeria. Failing that, individuals who carry out a professional activity in Algeria, whether salaried or not, are also deemed tax residents.

- **Conventional rules**

The tax treaties signed by Algeria have their own criteria for tax residence, which apply when an individual is considered a resident in both contracting states under their respec-

tive domestic laws. In most cases, these treaties adopt the successive criteria of the OECD model, which include the location of the permanent home, the place where personal and economic ties are strongest, the habitual place of stay, and nationality.

Determining the place of residence helps define the jurisdiction for taxation of certain categories of income. A detailed analysis of these treaties will be provided later.

1.3. Definition of the IRG

The Global Income Tax (IRG) applies to the income of individuals. It is assessed annually based on the total category-specific income of the taxable person.

1.4. Tax regime

As a general rule, the net income of each category is determined separately according to specific rules for each category before being aggregated to calculate the total income. This total income is then taxed according to a progressive scale. Unless an applicable tax treaty states otherwise, these incomes are generally determined and taxed under the same rules, whether earned by Algerian tax residents or non-residents.

For individuals subject to an unlimited tax obligation (having tax domicile in both countries), treaty provisions must be considered to avoid double taxation of income.

For individuals engaged in industrial and commercial activities with an annual turnover not exceeding 8 million DA, taxation falls under a different regime—the Flat-Rate Tax (IFU), which will be discussed in detail later.

1.4.1. Taxation of salaries

This taxation applies to salaries, wages, allowances, emoluments, pensions, and annuities. Additionally, the following are considered as salaries:

- Remuneration granted to partners and managers of LLCs (SARL), partners in partnerships, professional civil companies, and members of joint ventures.
- Payments to individuals working from home on an independent basis for third parties.
- Performance bonuses and non-monthly gratuities.
- Compensation from any occasional individual activity.

- **Determination of taxable income**

It consists of the main remuneration paid to beneficiaries, as well as any benefits in kind they may receive (such as food, housing, clothing, heating, lighting, etc.).

However, certain categories are exempt from tax, including:

- Deductions made by the employer for the establishment of pensions or retirement funds.
- Employee contributions.
- Family-related allowances.
- Temporary allowances and annuities paid for work-related accidents.
- Allowances granted for travel or mission expenses.
- Geographical area allowances.
- Severance allowances.
- Unemployment benefits and allowances granted under assistance and insurance laws and decrees.

- **Tax regime for employees**

Except salaries, allowances, bonuses, and non-monthly gratuities subject to a 10% [83] withholding tax which is applied by the employer according to the following progressive monthly IRG scale:

Taxable annual income bracket in DA	**Rate** (%)
Less than 240 000	0
From 240 001 to 480 000	23
From 480 001 to 960 000	27
From 960 001 to 1 920 000	30
From 1 920 001 to 3 840 000	33
Above 3 840 000	35

The amount of tax payable is determined after applying a deduction set at 40%, which must range between 1,000 and 1,500 DA per month.

Regulations also provide for a total exemption from IRG for monthly incomes not exceeding 30,000 DA. Additionally, incomes above 30,000 DA but below 35,000 DA benefit from a second additional deduction.

Note: Additional deductions may be applied to the total income tax amount for disabled employees.

1.4.2. Taxation of income from movable capital

There are two types of income covered by this category: income from shares, equity interests, and similar securities on the one hand, and income from debts, deposits, and guarantees on the other hand.

Income and capital gains from the sale of listed securities or securities traded on an organized market, as well as term deposits with banks, are exempt from IRG and IBS for a period of 5 years starting from January 1, 2024.

- **Share income**

This refers to the income distributed by joint-stock companies (SPA), limited liability companies (SARL), and partnerships subject to the IBS (corporate income tax). Specifically, distributed income includes the returns from investment funds, loans and advances to partners, remuneration, benefits, hidden distributions, and attendance fees.

These revenues received by resident and non-resident individuals or entities are subject to a withholding tax of 15% [84] at the time of payment. For income distributed to non-resident individuals or entities, the withholding tax is 15% and may be reduced subject to the application of a tax treaty.

- **Products from receivables, deposits, and guarantees**

This refers to interest and other proceeds from mortgage, preferred, or unsecured debts, bonds, cash guarantees, money deposits, and current accounts.

They are subject to taxation upon payment or when recorded as a debit or credit in an account. This taxation is carried out through a withholding tax at a rate of 10%, increased to 50% for bearer securities. For interest paid to non-resident individuals, the situation may differ if a relevant tax treaty applies.

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83 The rate adopted by the Finance Law for 2010, previously 15%.
84 Article 4 of the Finance Law for 2018.

1.4.3. Taxation of capital gains

There is a special regime applicable to capital gains made from the sale of real estate and a general regime for capital gains from the sale of fixed assets, known as professional capital gains.

- **Capital gains from the sale of real estate**

These are capital gains realized outside the framework of professional activity, from the sale of real estate or parts of built properties, undeveloped land, as well as real estate rights related to these properties.

The capital gain is equal to the difference between:

– The sale price, reduced by the amount of rights and taxes paid and expenses properly justified, incurred by the seller in connection with this transaction;
– The acquisition price or the creation value of the property, increased by acquisition, maintenance, and improvement costs, properly justified, within the limit of 30% of the acquisition price or the creation value.

The capital gain is subject to a final tax at a rate of 15%. The taxable income benefits from a deduction of 5% per year, starting from the third year after the acquisition of the property sold, up to a maximum of 50%.

Capital gains from the sale of collective housing, which constitutes the sole property and principal residence held for more than 10 years [85], are not subject to taxation.

- **Capital gains from the sale of fixed assets**

This applies to capital gains from the sale of fixed assets used in the activity and capital gains from the sale of shares. Acquisitions of shares or stakes, which grant the buyer ownership of at least 10% of the company's capital, are considered as fixed assets.

Capital gains from the sale of assets that are part of fixed assets are taxed differently depending on the holding period, whether short-term or long-term. They are considered long-term if they come from the sale of assets held for more than 3 years, and short-term if the sale occurs 3 years or less after the acquisition.

The amount of taxable capital gain to be attributed to taxable profits is determined according to the nature of the gain. If it is short-term, 70% of its amount is attributed to taxable profits, meaning a tax deduction of 30%. If it is long-term, 35% of its amount is attributed to taxable profits, meaning a tax deduction of 65%.

Currently, capital gains from the revaluation of non-depreciable assets do not enter into the calculation of the taxable base. This capital gain is recorded in a revaluation surplus account on the liability side of the balance sheet and is non-distributable.

Additionally, the base for calculating the capital gain or loss from the sale of depreciable and non-depreciable assets is the original value before revaluation [86].

Regarding leasing, capital gains realized from the sale of an asset by the lessee to the lessor in a leaseback agreement are not included in taxable profits.

For capital gains from the sale of shares or stakes made by resident individuals, these are taxed at a rate of 15%, which is a final tax. However, these capital gains are taxed at a reduced rate of 5% if their amount is reinvested by December 31 of the year following the year of the capital gain. "Reinvestment" means subscribing to amounts equivalent to

85 Article 3 of the 2017 Finance Law, Article 3 of the 2018 Finance Law.
86 Article 4, 2019 Finance Law.

the capital gains generated by the sale of shares or stakes into the capital of one or more companies, which results in the acquisition of shares or stakes.

For non-resident individuals and legal entities that have made capital gains in Algeria, a 20% withholding tax would be applicable.

Most of the tax treaties signed by Algeria stipulate that capital gains are only taxed in the country of residence of the seller.

1.4.4. Other categorical revenues

- **Industrial and Commercial Profits [87] (BIC)**

These profits include industrial and commercial profits, which primarily come from the exercise of commercial, industrial, craft professions or mining activities, as well as profits from non-commercial professions.

For the determination of taxable income for global income tax, the law refers to the rules established for corporate tax.

Activities carried out by individuals whose annual turnover does not exceed 8 million DA are subject to the flat-rate tax system (IFU), which covers both global income tax (IRG) and value-added tax (VAT).

However, activities with a turnover exceeding the aforementioned threshold are subject to the real profit system.

The IFU rate is set as follows:
– 5% for production and sale of goods.
– 12% for other activities.
– 0.5% for activities conducted under the status of a self-employed entrepreneur.

Individuals subject to the flat-rate tax system are required to submit a special declaration to the tax inspector of the location of the activity, between June 1 and 30 each year, using the form provided by the tax administration.

These individuals must pay 50% of the IFU at the time of submitting the provisional declaration, with the remaining 50% paid in two equal instalments, from September 1 to 15 and from December 1 to 15.

A supplementary declaration between January 20 and February 15 of the following year is required if the turnover exceeds the amount declared by the taxpayer.

Individuals wishing to opt out of the system must notify the tax administration before February 1 of the year following the period during which the option was exercised or tacitly renewed.

It is important to note that certain activities are excluded from the IFU tax system, as detailed below:

– Real estate development and land subdivision activities.
– Activities involving the importation of goods and merchandise for resale as is.
– Activities of buying and reselling as is carried out in wholesale conditions.
– Activities carried out by dealers.
– Activities carried out by private clinics, health establishments, and medical analysis laboratories.
– Activities related to classified restaurants and hotels

87 Article 4, 2022 Finance Law.

- Refiners and recyclers of precious metals, manufacturers, and merchants of gold and platinum items.
- Public works, hydraulic works, and construction.
- Sale of alcoholic beverages
- Companies involved in the collection, processing, and distribution of tobacco leaves.
- Caterers and catering.
- Rental of rooms for celebrating events or organizing meetings, seminars, and conferences.
- Retail trade carried out in large stores.
- Vehicle rental.
- Rental of machinery and equipment.
- Travel and tourism agencies.
- Advertising and communication agencies.
- Various training and education services.
- General agents and insurance brokers.

- **Non-commercial benefits**

These profits include the profits from liberal professions, charges, and offices where the holders are not considered merchants, as well as all occupations, profitable operations, and sources of income that do not fall under any other category of profits or income. These profits also include:

- Royalties received by writers or composers and by their heirs or legatees;
- Income earned by inventors either from granting licenses to exploit their patents or from the sale or licensing of trademarks, manufacturing processes, or formulas.

The profit to be considered for the income tax base is the excess of total revenues over the necessary expenses for the practice of the profession.

However, in the absence of justification for all necessary expenses for the practice of the profession, a flat-rate amount of 10% of the total declared revenues is allowed as a deduction.

- **Land income**

These are the income derived from the rental of real estate, commercial and industrial premises, and from the rental of undeveloped properties of all kinds, including agricultural land.

Income from the civil rental of real estate for residential use is subject to global income tax, calculated on the amount of gross rent at the location of the rented property, whether built or undeveloped. Annual gross rents of an amount less than or equal to 1,800,000 DA are subject to a final tax at the rate of:

- 7%, calculated on the amount of gross rent, for income from residential rentals.
- 15%, calculated on the amount of gross rent, for income from the rental of premises for commercial or professional use, not furnished with the necessary furniture or equipment for their operation. This rate also applies to contracts with companies.
- 15%, calculated on the amount of gross rent for undeveloped properties. This rate is reduced to 10% for agricultural rentals.

Annual gross rents exceeding 1,800,000 DA are subject to a provisional tax at a rate of 7%, which is credited against the final global income tax established by the tax authorities where the taxpayer's fiscal residence is located.

2. Main taxes owed by legal entities

Legal entities present in Algeria may be taxed differently depending on whether they are residents or non-residents. Additionally, the tax treaties signed by Algeria override domestic rules by providing specific tax regulations for certain types of income.

2.1. Resident legal entities

2.1.1. Direct taxes

2.1.1.1. Corporate Income Tax (CIT)

An annual tax called Corporate Income Tax (CIT) is levied on the profits generated by companies with legal personality.

Partnerships, joint ventures, and civil companies not established as joint-stock companies (SPA) are generally not subject to CIT but may opt for this tax. Other entities, such as collective investment schemes (OPCVM), cannot opt for this tax regime.

The profits concerned are those realized in Algeria, including:

– Profits made by companies engaged in industrial, commercial, or agricultural activities in the absence of a permanent establishment as defined by tax treaty provisions;
– Profits of companies in Algeria that use the services of representatives who do not have a distinct professional identity from the companies themselves;
– Profits of companies that, while not having a permanent establishment or designated representatives in Algeria, still carry out activities directly or indirectly resulting in a complete cycle of commercial operations.

a) the taxable incomes

They correspond to the result of all types of operations carried out by the companies, including asset disposals, whether ongoing or at the end of operations.

They are determined from the accounting profit before tax, adjusted for tax implications.

b) Taxable products

— Operating products

These refer to the sales, works, or services performed by the company. The revenue relates to an acquired and certain receivable.

— Of financial products

These refer to interest on receivables and income from securities (income from shares, stakes, bonds, etc.)

— Other operational products

These refer to other income related to the activity, such as capital gains, royalties, and subsidies.

– **Revaluation capital gains** are taxable, except during a period when a specific regulation provides for an exemption of these gains. That being said, capital gains realized from the revaluation of non-depreciable assets will no longer be included in the calculation of the taxable base starting in 2019.

– **Capital gains from disposals**, on the other hand, are taxed differently depending on whether they are short-term or long-term, and they may be exempt from tax if the amount, when added to the acquisition cost of the disposed assets, is reinvested in fixed assets within three years from the end of the fiscal year.

  Capital gains realized from disposals in the context of a leaseback transaction between the lessee and the lessor, whether in a lease-back or an option exercise, are not taxable.

  Subsidies received are also taxable. There are three types of subsidies granted by the state or public authorities:

– **Equipment subsidies:** These are linked to the results as follows:
  – According to the depreciation period for those intended for the acquisition of depreciable assets;
  – Over a period of 5 years, in equal instalments, for those intended for the acquisition of non-depreciable assets.

  In the case of disposal of assets acquired through these subsidies, for determining the capital gain or loss, the portion of the subsidy not yet reported to the tax base is subtracted as follows:

  – From the net book value, for depreciable assets;
  – From the acquisition price of the assets, for non-depreciable assets.

– **Operating subsidies:** These include compensatory allowances for insufficient prices and subsidies intended to cover operating expenses. They are considered taxable income under the general rules at the time of their receipt.
– **Balance subsidies:** These are granted based on the company's results and are included in the taxable income for the year in which they are received.

c) Deductible expenses

Expenses and charges are deductible only to the extent that they are related to the normal management of the business, actual and justified, included in the expenses of the year during which they were incurred, and result in a reduction of net assets. These include:

– **Purchases and consumption of materials and goods (stocks):** purchases must be recorded at their purchase price (purchase price plus ancillary costs, less any rebates);
– **Service charges:** certain conditions must be met for the deduction. Thus, the remuneration paid to third parties who are not employees must be declared on the tax return, along with rents for premises directly allocated to the operation. Similarly, maintenance and repair costs must be aimed at maintaining the condition of the company's fixed assets and installations and not increasing their lifespan. When the service contract is made with a non-resident provider, a withholding tax on the contract amount must be deducted by the company;

Regarding technical assistance costs, the legislator has limited the deductibility of financial or accounting technical assistance provided by a company located abroad as follows:

– **20% of the general expenses** of the debtor company and **5% of its turnover**.
– **7% of turnover** for consulting and engineering firms.
– **Expenses, which meet the deductibility conditions,** paid in cash when the invoice amount exceeds 1 million DA including VAT, are not allowed as a deduction [88]; excluding payments made by cash deposit in a bank or postal account from the concept of cash payment.

88 Article 10, 2018 Finance Law.

- **Personnel costs:** for salaries to be deductible, they must correspond to actual work and not be excessive in relation to the importance of the service provided.
- Social charges and social security contributions related to salaries are deductible from the result calculation.
- **Taxes:** taxes and duties paid by the company are deductible, except for the corporate income tax itself. However, fines, penalties, late fees, or tax surcharges are not deductible from taxable profits.
- **Financial charges:** they are, in principle, deductible. If they involve interest paid to a non-resident company, a 10% withholding tax is applied.
- **Headquarters expenses:** headquarters expenses are deductible up to 1% of the company's turnover for the year corresponding to their incurrence.
- **Miscellaneous expenses:** this includes, in particular, insurance premiums paid to cover the risks associated with various assets or donations made to humanitarian institutions, which are deductible up to a ceiling of 4 million DA, or amounts allocated to sponsorship, patronage, and sports activity sponsorship up to 10% of the turnover for the year, with a maximum ceiling of 30 million DA.
- **Expenses related to passenger vehicles:** the portion of the rental for passenger vehicles, which are not the main tool of the business, exceeding 200,000 DA per year, and the portion of maintenance and repair expenses exceeding 20,000 DA per vehicle, are not deductible.
- **Expenses incurred for research and development within the company and for open innovation programs**, carried out with companies holding the "start-up" or "incubator" label, are deductible up to 30% of the accounting profit, within a ceiling of 200 million DA. When the expenses concern both research and development and open innovation, the total amount of expenses cannot exceed 200 million DA.
- **Depreciation** carried out within the limit of authorized depreciation, i.e., according to the duration defined by the decree of February 25, 2024, setting the depreciation period for fixed assets, applied for the determination of taxable income. A deduction limit of an acquisition value of 3 million DA applies to the depreciation of passenger vehicles acquired by the company, except when they constitute the main tool of its activity.
- **Expenses related to marketing actions** for the launch of pharmaceutical and para-pharmaceutical products with an advertising nature in any form, incurred by importers, drug manufacturers, and medical promotion laboratories, are tax-deductible up to 1% of the annual turnover.
- **Provisions:** to be deductible, they must reflect clearly defined losses or expenses, made probable and not merely potential by an event originating in the fiscal year, be recorded in the accounting records, and be reported in the provisions statement of the tax return.

d) Transfer pricing

Profits that a company was unable to realize due to a transfer pricing policy that does not comply with the arm's length principle of the group to which it belongs will also be considered taxable profits and reintegrated into the company's taxable income under the Corporate Income Tax (IBS).

Thus, the Direct Tax Code stipulates that when two related companies enter into transactions under conditions that differ from those that would be agreed upon between independent companies, the profits that one of the companies would have realized but did not due to these different conditions are included in the taxable profits of that company. This provision applies to both cross-border and domestic group companies.

These elements enable the determination of taxable income (profit). In the absence of such elements, the tax administration will determine the taxable income based on the available information and by comparison with the taxable income of similar companies operating under normal conditions.

Independently of this, the concerned companies must submit, along with their annual tax return, documentation justifying the transfer pricing policy applied in these transactions.

Failure to submit or incomplete submission of the initially required or additional documentation justifying transfer pricing within 30 days from the notification, sent by registered mail with acknowledgment of receipt, results in:

– The application of a tax fine of 15 million DA.
– The application of a tax penalty equal to 2% of the amount of transactions concerned by the missing or incomplete documents, following a formal notice. This penalty cannot be less than 10 million DA per audited fiscal year.

A new legal framework has been established by the Amended Finance Law of 2023, requiring taxpayers to submit a transfer pricing declaration electronically using a model set by the tax administration. The reporting obligation applies to any company that:

– Has an annual turnover excluding taxes or gross assets equal to or greater than 1 billion DA.
– Or directly or indirectly holds, at the end of the fiscal year, more than 50% of the share capital or 40% of the voting rights of a company established in Algeria or abroad, whose annual turnover excluding taxes or gross assets is equal to or greater than 1 billion DA;
– Or is itself more than 50% owned or has more than 40% of its voting rights controlled, directly or indirectly, by a company whose annual turnover excluding taxes or gross assets is equal to or greater than 1 billion DA.

The required documentation remains divided into two parts: general information about the group and specific information about the company operating in Algeria.

e) Tax calculation

— Applicable rates

The tax rates are determined based on the sectors of activity as follows [89]:

– 19% for activities related to the production of goods.
– 23% for construction, public works, and hydraulic activities, as well as tourism and thermal activities, excluding travel agencies.
– 26% for all other activities.

It should be noted that production of goods refers to activities involving extraction, manufacturing, shaping, or transformation of products, excluding packaging or commercial presentation for resale. Additionally, production activities under the IBS tax rate do not include mining and hydrocarbons activities.

Regarding construction, public works, and hydraulic activities eligible for the 23% rate, this applies to businesses registered as such in the commercial register and subject to specific social contributions for the sector, namely the National Fund for Paid Leave and Unemployment Due to Weather Conditions in the Construction, Public Works, and Hydraulic Sectors (CACOBATPH).

89 Article 2, 2015 Complementary Finance Law.

If multiple activities subject to different tax rates are carried out simultaneously, the corresponding profits are taxed at the respective rates based on the proportion of declared revenue for each activity segment.

Reinvested profits, under the conditions set by Article 142 bis of the Direct Tax Code, are subject to a reduced IBS rate of 10%.

— Withholding taxes

Several IBS withholding tax rates are established as follows:

- **10%** for income from loans, deposits, and guarantees. This withholding tax serves as a tax credit deductible from the final tax liability.
- **50%** for income from anonymous or bearer securities.
- **20%** for amounts received by companies under a management contract, which are taxed through withholding at source.
- **30%** for:
  - Amounts received by foreign companies that do not have a permanent professional establishment in Algeria for service contracts.
  - Payments for any type of service provided or used in Algeria.
  - Royalties paid to foreign inventors for the licensing of patents or for the transfer or licensing of trademarks, manufacturing processes, or formulas.
- **10%** for amounts received by foreign maritime transport companies, provided that their country of origin imposes taxes on Algerian maritime transport companies. However, if the said country applies a higher or lower rate, the principle of reciprocity will be enforced.

  When the taxable base for IBS withholding tax benefits from rate reductions or exemptions, VAT is applied under the reverse charge mechanism [90].
- **2%** on amounts received by foreign companies without a permanent professional establishment in Algeria for all operations related to the importation of goods and services intended for the establishment and operation of fixed, mobile, and satellite telecommunication networks [91].

f) Establishment and payment of tax

— Obligations of companies

Companies subject to IBS are required to maintain accounting records, present financial documents upon request by the tax administration, and keep these records for a period of 10 years.

Accounting must comply with the laws and regulations in force, particularly the Financial Accounting System (SCF). These companies are also subject to tax obligations. Thus, within 30 days of starting their activity, they must file a declaration of existence with the territorially competent tax inspection office.

In the event of a business transfer or cessation, the tax due on untaxed profits is immediately assessed.

— Tax declaration and payment

Corporate income tax is assessed in the name of legal entities at their registered office or main establishment.

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90 Article 74, 2017 Finance Law.
91 Article 76, 2018 Finance Law.

The annual tax return must be filed no later than April 30 of each year. If the company incurs a loss, it must still declare the amount of the deficit under the same conditions.

A deficit from one fiscal year can be carried forward to offset profits in subsequent years, up to the fourth year inclusive. Companies must first offset the oldest deficits.

For Algerian companies, tax payments consist of three advance payments of 30% each, based on the previous year's taxable profits. These payments must be made to the tax collector without prior notice.

The final tax balance is settled by the taxpayers by the 20th of the month following the deadline for the annual tax return submission, after deducting the advance payments already made.

For newly created companies, each advance payment is calculated as 30% of the tax on a profit estimated at 5% of the called-up share capital.

2.1.1.2. Dividends

a) Dividends paid to Algerian legal entities and resident individuals

Dividends distributed to resident corporate shareholders, which have already been subject to corporate income tax (IBS), are not included in the taxable base of the receiving shareholder company, provided that the profits have been duly declared.

Dividends received by resident individuals are subject to a 15% withholding tax. However, dividends paid to shareholders of companies subject to the flat-rate tax regime (Impôt Forfaitaire Unique, IFU) are exempt from withholding tax [92].

b) Dividends paid to legal entities

From the 2022 fiscal year, income from the distribution of dividends that have been subject to IBS or expressly exempted is subject to a 5% global income tax (IRG).

c) Dividends paid to non-resident legal entities or individuals

Dividends distributed to non-resident corporate or individual shareholders are subject to a 15% withholding tax, applied by the distributing company. However, if an applicable tax treaty exists, the withholding tax rate may vary.

2.1.1.3. Local Solidarity Tax

This tax was introduced by the 2024 Finance Law, replacing the Professional Activity Tax (TAP) for activities related to pipeline transport of hydrocarbons and mining operations.

Previously, TAP was levied on the revenue of taxpayers at different rates. However, the provisions governing TAP have been repealed by the same Finance Law.

The Local Solidarity Tax serves as an important revenue source for local authorities, to which it is fully allocated. Its taxable base is calculated based on the transported quantities, according to the applicable pipeline transport tariff under existing legislation.

a) Tax rates

The Local Solidarity Tax is applied at the following rates:

– 3% on the revenue from pipeline transport of hydrocarbons.
– 1.5% on the revenue from mining activities.

92 Article 10, 2015 Finance Law.

b) Taxable base

The taxable base consists of the total net revenue excluding VAT. However, tax reductions may be applied for specific purposes. These reductions apply only to non-cash transactions. Additionally, certain operations are excluded from the taxable base.

— 30% reduction

A 30% reduction applies to transactions conducted under wholesale sales conditions by mining companies, provided the payment is made by a non-cash method.

— Excluded elements from the taxable base

The following operations are not included in the Local Solidarity Tax base:

- Transactions between different units of the same company.
- Transactions between companies within the same group, as defined by Article 138 of the Direct Tax Code.

c) Tax liability

The tax liability arises:

- For pipeline transport of hydrocarbons, when the transport operation occurs.
- For mining activities, upon the legal or material delivery of goods.

d) Tax filing and payment

The Local Solidarity Tax is assessed in the name of the company based on its revenue.

- The tax must be declared monthly based on the revenue of the month.
- Payment must be made spontaneously at the time of filing the tax return.
- Payments are made to the tax collector's office at the company's registered office or main establishment.
- Exception: Taxpayers under the Large Enterprises Directorate (DGE) must centralize their payments at the DGE.[93]
- The payment deadline is the 20th of each month.

Additionally, companies must submit an annual declaration along with their corporate income tax (IBS) and global income tax (IRG) declarations. This declaration must detail:

- Total gross revenue subject to tax.
- Revenue benefiting from a tax reduction.

2.1.2. Value-Added Tax (VAT)

Value-Added Tax (VAT) was introduced in Algeria in 1992 and applies to sales transactions, real estate work, service provisions and import operations.

VAT applies regardless of the legal status of the entities involved and without regard to their tax status under other tax laws.

There are other taxes that follow the same rules for VAT assessment, collection, and litigation, including:

- Internal Consumption Tax (TIC)
- Tax on Petroleum Products (TPP)
- Energy Efficiency Tax.

93 Article 16, 2024 Finance Law.

2.1.2.1. VAT territoriality

For sales transactions, a transaction is considered to have taken place in Algeria if the goods are delivered within Algerian territory.

For other operations, a transaction is considered to have taken place in Algeria if the:

- Service is provided
- Right is transferred
- Object is leased
- Study is conducted

And if they are used or exploited in Algeria

2.1.2.2. Taxable transactions

a) Mandatorily taxable transactions

These include, in particular, sales and deliveries made by producers and distributors, real estate work, sales of buildings or businesses, sales made by wholesalers, deliveries of goods that taxable persons make to themselves, rental operations, service provisions, research and study work, as well as transactions carried out in the practice of a liberal profession, operations conducted by banks and insurance companies, and sales made via electronic commerce.

b) Optionally taxable transactions

These are transactions that, in principle, fall outside the scope of VAT but become subject to it upon election.

This applies to operations carried out by non-liable entities insofar as they invoice exports, petroleum companies, other liable entities, or businesses benefiting from the tax-exempt purchase regime.

c) Exempt transactions

Exemptions granted for certain transactions within the scope of VAT are based on economic, social, or cultural considerations or result from reciprocity measures applied with a third country.

For domestic transactions, exemptions apply in particular to the sale of pharmaceutical products, certain categories of commercial and passenger vehicles, goods, materials, products, and works acquired or performed on behalf of petroleum companies, personal insurance contracts, and banking credit transactions granted to households for the acquisition or construction of individual housing. Exemptions also apply to the repayment of credits within medium- and long-term mortgage credit agreements, including those related to real estate leasing, as well as fixed internet access services. Additionally, to encourage leasing operations, the law provides for an exemption from this tax on acquisitions made by banks and financial institutions as part of leasing operations.

For import transactions, exemptions apply to goods whose domestic sale is VAT-exempt, imported goods placed under one of the customs duty suspension regimes, and goods admitted duty-free.

For export transactions, exemptions apply to sales and subcontracting services involving exported goods, except for antiques, old books, furnishings, collectibles, and works of art created by artists who have been deceased for more than 20 years, as well as sales of jewellery, goldsmithing, and other precious metal works.

Additionally, goods of national origin delivered to legally established bonded warehouses are also exempt.

2.1.2.3. Tax calculation

Four types of tax treatments are provided:
- Taxation at the standard rate of 19%
- Taxation at the reduced rate of 9%

The reduced rate applies to certain goods, products, and materials, as well as to a number of specific operations expressly mentioned in Article 23 of the Sales Tax Code.

Special rules are established for determining the taxable base for transactions involving petroleum products, real estate works, self-deliveries of goods, as well as transactions carried out by dealers, transport agents and forwarders, dependent companies, and real estate and business traders.

For imported goods, the VAT rate applies to the customs value, increased by duties and taxes other than VAT.

a) VAT deduction on purchases

A VAT-registered taxpayer may deduct the VAT incurred on purchases and acquisitions from the VAT collected and invoiced to customers.

The principle of VAT deduction is subject to substantive and formal conditions. VAT is deductible in the month or quarter in which it was paid. If a deduction is omitted, it can be reported in later declarations until December 20 of the year following the omission [94]. The omitted tax must be listed separately from deductible taxes related to the current declaration period.

For cash transactions, VAT deduction is only possible if the invoice amount does not exceed 1 million DA per taxable cash transaction [95].

In terms of substance: The purchased or acquired goods must contribute to taxable VAT operations and must not be excluded from the right to deduction.

Exclusions include transactions outside the VAT scope, exempt transactions, and expressly excluded operations. These include goods, services, materials, real estate, and premises unrelated to a taxable activity, passenger and transport vehicles not considered primary business tools, donations and gifts, real estate traders, and brokers.

In terms of form: Deductible VAT must be explicitly stated on a duly recorded purchase or acquisition invoice.

For partial taxpayers who do not pay VAT on all their transactions, deductible VAT is limited to a fraction of the VAT incurred on purchases of goods and services. This fraction is determined using a general deduction percentage called the "prorata". All amounts must be recorded exclusive of tax, excluding the amount of VAT due or not required to be paid.

Taxable persons must reimburse deducted VAT from collected VAT in cases where purchased goods disappear, are used for non-taxable operations, or when the purchase invoice containing the deducted VAT is considered definitively unpaid.

No VAT reimbursement is required for leasing companies upon the transfer of ownership when the lessee exercises the purchase option.

2.1.2.4. Payment

VAT taxpayers must submit a VAT declaration and pay any due tax within the first 20 days of each month or quarterly, depending on their reporting period. The designated form also serves as a declaration for other taxes.

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94 Article 34, 2018 Finance Law.
95 See Article 30 CTCA, as amended by the Complementary Finance Law for 2010.

2.1.2.5. Specific regimes

- **VAT refund**

VAT incurred on purchases by taxable persons is generally deductible from invoiced VAT. In some cases, taxpayers cannot deduct VAT via offsetting due to a lack of collected VAT. A mechanism allows them to recover VAT paid to suppliers, service providers, or subcontractors through a refund.

A refund is granted for export transactions, authorized tax-exempt purchases, marketing of expressly VAT-exempt goods and services, business cessation, or a withholding tax resulting from the difference between the reduced rate applied to sales and the standard rate applied to purchase invoices.

However, VAT credit reimbursement is subject to the taxpayer's overall tax compliance. Once a refund request is made, the credit amount can no longer be offset on form G No. 50. Requests must be submitted to the relevant tax authority (Direction of Large Companies, Wilaya Tax Direction, or Tax Center Direction) no later than the 20th of the month following the quarter for which the refund is requested [96]. Partial taxpayers must submit their refund requests by April 30 following the credit accumulation.

The credit amount requested for reimbursement must be at least 1 million DA, except for annual requests from partial taxpayers, which have no minimum threshold.

A financial advance of 30% may be granted based on a formally confirmed VAT prepayment by the tax office upon request submission.

VAT linked to operations that do not entitle the taxpayer to a deduction (due to prorata application) is not eligible for reimbursement for partial taxpayers.

In case of refund rejection, the taxpayer has four months to file a tax dispute against the tax office's decision [97].

- **Tax-exempt purchases**

The tax-exempt purchase regime is an alternative for taxpayers unable to deduct VAT on purchases, allowing them to acquire goods, materials, and services without paying VAT. This regime applies to:

– Goods and services acquired by suppliers of petroleum companies (excluding exploration activities) [98].
– Purchases or imports of products intended for export, re-export in their original state, or incorporation into the manufacture, packaging, or wrapping of exported goods, including export-related services.
– Capital goods (excluding passenger vehicles) acquired by young investment promoters.
– Goods and services acquired under a contract between a non-resident foreign company and a local partner benefiting from VAT exemption.

- **VAT exemption regime**

Taxpayers engaged in investment activities may benefit from VAT exemption, allowing them to acquire tax-free goods and services directly related to the investment.

Exemption certificates or tax-free purchase attestations can be downloaded electronically. The beneficiary must submit them to the relevant tax office for validation.

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96 Article 33, 2017 Finance Law.
97 Ibid. Article 45.
98 Introduced by the Finance Law for 2011.

2.1.2.6. Other taxes on turnover

The Finance Law for 2009 introduced a tax applicable to prepaid reloads. This tax is due monthly by mobile telephony operators, regardless of the recharge method. The tax rate was set at 5% and increased to 7% in 2017. It is applied to the recharge amount for the month. The revenue is paid by the concerned operators to the territorially competent tax collector within the first 20 days of the following month.

The Finance Law for 2018 introduced taxes applicable to:

- Mobile telephony operators,
- The authority in charge of postal and telecommunications regulation,
- Operators holding licenses for the establishment and operation of public mobile telecommunications networks, and
- Operators holding authorizations as internet service providers.

These taxes apply as follows:

- A tax on the activity of wholesale distributors of electronic phone credit recharges, acting as lead distributors. The tax rate is set at 0.5% of the telecommunications credit deductions made from telecommunications operators. This tax is collected by mobile telephony operators at the time of credit deduction and is paid to the Postal and Telecommunications Regulatory Authority [99];
- A 0.5% tax on the annual turnover of the authority in charge of postal and telecommunications regulation [100];
- A 0.5% tax on the turnover of operators holding licenses for the establishment and operation of public mobile telecommunications networks. This contribution is paid to the postal and telecommunications regulatory authority no later than the end of the first half of the following year [101];
- A 0.5% tax on the net annual income of operators holding authorizations as internet service providers. This contribution is paid to the postal and telecommunications regulatory authority no later than the end of the first half of the following year [102].
- Additionally, the Finance Law for 2018 introduced a flat-rate tax at a rate of 3%, applicable to retail sales of tobacco products. This tax was increased to 5% by the Finance Law for 2022. The tax is collected by tobacco producers at the factory exit and is paid monthly to the territorially competent tax collector [103].

2.1.3. Registration fees applicable to legal entities

Registration fees apply whenever an act or transfer is registered with the competent registration administration.

2.1.3.1. Registration fees on sales

The Registration Code defines a sale as a contract whereby the seller undertakes to transfer ownership of an asset or any other patrimonial right to the buyer, who must pay the agreed price.

- **Sale of real estate**

The sale of real estate must be registered with the tax administration and published at the land registry. This entails the payment of a registration fee of 5% and a so-called land

99 Article 72, 2018 Finance Law.
100 Ibid. Article 73.
101 Ibid. Article 74.
102 Ibid. Article 75.
103 Ibid. Article 68.

publicity tax at a rate of 1%. Sales of professional real estate conducted under a lease-purchase agreement, upon the exercise of the purchase option by the lessee, are exempt from the 5% registration fee.

Additionally, the sale must be executed through a notarized deed, and payment must be made immediately for half of the price [104], through the notary.

The registration fee applies not only to sales contracts but also to any other act that, even without formally constituting a sale, results in the transfer of ownership for consideration.

The tax base is determined by the price stated in the contract, including all additional charges and any indemnities payable to the seller. However, the tax administration may assess the market value of the property and apply taxation if this value is found to be higher than the declared value during inspection.

- **Sales of movable property**

Sales of movable property can take place either through public auctions or private sales. If recorded in a formal deed, they are subject to mandatory registration, requiring payment of a 2.5% registration fee.

Sales of professional equipment carried out under a lease-purchase agreement upon the exercise of the purchase option by the lessee are exempt from this fee.

- **Sales of business assets and clientele**

Transfers of business assets and clientele for consideration are subject to a 5% registration fee. This fee is levied on the sale price, the value of the goods, the transfer of lease rights, and the movable assets and other items used in the operation of the business. However, new goods are only subject to a 2.5% registration fee.

2.1.3.2. Registration fees on corporate acts

a) Acts related to company formation

The creation of a company involves allocating a distinct patrimony to the legal entity, separate from that of its partners.

— Pure and simple contributions

These contributions grant the contributor, in exchange, simple social rights (equity shares or stocks) that are exposed to all business risks. Tax regulations stipulate that company formation deeds are subject to a 0.5% fee on the total value of movable and immovable contributions made as pure and simple contributions, with a minimum fee of 10,000 DA and a maximum of 300,000 DA (for joint-stock companies, or SPA).

— Contributions for consideration

These are considered as actual sales made by the contributor to the company and are thus subject to a transfer duty, determined based on the nature of the assets, as in a standard sale. This duty is assessed on the declared price, including any additional charges, or on the fair market value if it is higher.

— Mixed contributions

A contribution may be partly pure and simple and partly for consideration. In such cases, the deed must specify which assets are transferred for consideration. If both movable and immovable assets are involved, the rate applicable to immovable assets prevails, provided that movable assets are not individually appraised in the contract.

104 Article 23, 2018 Finance Law.

b) Acts during the company's existence

During the life of a company, certain modifications may be made to its capital.

— Capital increase

A capital increase is subject to a 0.5% registration fee, with a minimum of 10,000 DA and a maximum of 300,000 DA (for SPAs).

For capital increases in variable capital companies, the proportional fee is levied only on the portion of the share capital that, at the close of a financial year, exceeds the previously taxed capital. The contribution fee is assessed on the actual value of the new contributions.

If the capital increase results from the incorporation of profits, reserves, or provisions of any kind that have not been subject to corporate income tax, a 1% registration fee applies.

— Capital reduction

A capital reduction decreases the company's capital, which is enforceable against creditors. From a tax perspective, two types of capital reductions exist:

- A reduction due to losses, which is recorded under a fixed duty for unspecified deeds (5,000 DA), provided no corresponding reimbursement is made to shareholders.
- A reduction through the distribution of company assets, which triggers a 2% partition duty on the value distributed to each shareholder.

— Change in legal structure

If a company transformation does not create a new legal entity, the act is subject to a fixed duty of 500 DA for unspecified deeds. If it does result in a new entity, the standard company formation fees apply.

— Extension of company duration

Extending a company's duration is subject to different tax treatments depending on whether it occurs before or after the original expiration date.

- If the extension occurs before the company's expiration, the act is subject to a 0.5% fee on the company's assets, with a minimum of 10,000 DA and a maximum of 300,000 DA.
- If the extension occurs after the company has expired, effectively creating a new company, it is subject to the ordinary contribution duty based on the net social capital, as well as the transfer duty on liabilities.

— Company merger

In all types of mergers, there is a transfer for consideration, as the surviving company assumes the liabilities of the dissolved companies.

- The contribution duty of 0.5% is levied on the actual value of contributions, reduced by the assumed liabilities.
- The transfer duty for consideration is applied according to the rules governing mixed contributions.
- For SPAs, the 0.5% rate cannot result in a registration fee lower than 10,000 DA or higher than 300,000 DA.

c) Acts of dissolution of the company

— Acts of company dissolution

These acts are obligatorily subject to registration. They incur a fixed fee of 3,000 DA when they do not involve any transfer of assets between the shareholders or other parties.

— Transfer of social rights after dissolution

Transfers of social rights occurring after the dissolution but before the liquidation is completed are subject to the same rules as transfers made before dissolution. However, once the liquidation is finished, transfers of social rights are subject to ordinary transfer duties, based on the rate applicable to each asset.

— Transfer of social rights leading to dissolution

Transfer duties are also due when the transfer of social rights results in the dissolution of the company.

2.1.3.3. Registration fees on the sale for consideration of social rights and bonds

• Transfer of social rights

Acts involving the transfer of shares and social rights are subject to a 2.5% registration fee. This fee is due when a deed confirming the transfer exists.

The fee is calculated as in the case of ordinary movable property, i.e., on the sale price, plus any charges, or on the market value of the transferred shares, if higher.

Certain transfers of social rights are, from a tax perspective, considered to involve the actual assets represented by the transferred shares. This applies to:

– Transfers of shares made during the non-negotiable period of those shares.
– Transfers of social rights within three years of the contribution made to the company.

These transfers are subject to the tax regime for the sale of assets for which the contribution was compensated by the transferred shares.

• Transfer of bonds

Acts involving the transfer of negotiable bonds are subject to a 5% registration fee.

As with the transfer of social rights, this fee is calculated based on the sale price, plus any charges, or on the actual value, if higher.

2.1.4. Tax benefits

These are tax benefits provided under Law No. 22-18 of July 24, 2022, regarding investment. These benefits are granted by the Algerian Investment Promotion Agency (AAPI) [105].

Additionally, prior Finance Laws provide some exemptions, particularly Law No. 2021 Finance Law, which introduced exemptions for businesses with the "start-up" and "incubator" labels, as detailed below:

– **Start-up Companies:** Companies with the "start-up" label are exempt from Corporate Income Tax (IBS) for four years from the date of obtaining the label, with an additional year granted in case of renewal. The equipment acquired by these companies

105 For a detailed review of the granted benefits, see Chapter 4 : 1.5. Benefits that may be granted to investors. Page 72. ↗

directly related to their investment projects is exempt from VAT and subject to a 5% customs duty.

– **Incubator Companies:** Companies with the "incubator" label are exempt from the Global Income Tax (IRG) or Corporate Income Tax (IBS) for two years from the date they receive the label. The equipment directly related to their investment projects is also exempt from VAT.

Moreover, to continue encouraging the introduction of company capital on the stock exchange, the reduction in IBS equal to the percentage of the company's share capital open to the stock exchange will be maintained for three years from January 1, 2021.

From the 2022 fiscal year, start-ups under the flat-rate tax regime are also eligible for these tax exemptions.

2.2. Non-resident legal entities

In the absence of a tax treaty, domestic law stipulates that foreign companies not resident in Algeria are taxed on income from Algerian sources, but under a different tax regime based on the nature, duration, and location of the activity carried out. Since 1999, the withholding tax regime that applied to any foreign non-resident company conducting business in Algeria has been eliminated for real estate construction companies. It is now only maintained for service contracts. Real estate work and EPC-type contracts are taxed under the actual profit system.

When a treaty applies, some adjustments are made to these various tax regimes.

2.2.1. Service contracts regime

• Withholding tax regime

Unless a tax treaty applies, foreign non-resident companies executing service contracts such as engineering studies, supervision, project management, or industrial property rights concessions are subject to a 30% withholding tax covering both IBS and VAT. The tax base for calculating the 30% withholding is the gross amount of the services provided.

Taxes, duties, and fees due under a contract that legally fall on the foreign partner cannot be paid by Algerian institutions, public bodies, or companies. These foreign companies must register with the tax administration within a month of signing the service contract and comply with certain reporting obligations.

They must declare the salaries paid to their employees for work performed in Algeria and pay taxes on those salaries. Companies that carry out these services from abroad or via intervention in Algeria for a period not exceeding 183 days are subject to these reporting obligations. Specifically, they must send, by registered mail with acknowledgment of receipt, a copy of the contract to the relevant tax office in the month following their establishment in Algeria.

• Option for the actual regime

Service providers subject to the 30% withholding tax may opt for taxation based on actual profits. The decision to opt for this regime must be communicated to the tax administration within 30 days of the contract's signature or any amendments made to the contract.

Such an option requires the company to maintain accounting in accordance with the Financial Accounting System (SCF), submit monthly declarations of turnover, and pay corresponding taxes and duties, as well as file an annual tax return.

- **Service provision and equipment sales**

When the service contract also includes the supply of materials and equipment, the Code of Direct Taxes and Similar Taxes (Article 156) allows the exclusion of the value of this supply from the taxable base for the withholding tax. This sale is considered a simple importation subject to customs duties and taxes, which are borne by the Algerian client.

These equipment items must be invoiced separately from abroad and imported in the name of the Algerian client.

- **Royalties for software use**

For royalties related to software usage, a 30% reduction applies to the royalty amount, which is subject to the 30% withholding tax, resulting in an effective tax rate of 21%.

In addition to this withholding, the 2017 Finance Law introduced VAT taxation under the self-assessment regime on services benefiting from a reduced rate or discount. This VAT is paid by the client.

- **Service provision and tax treaties**

When a tax treaty exists between Algeria and the provider's country of residence, the provision of services should be taxed in accordance with the provisions of that treaty. Depending on whether the service provider's activities in Algeria are considered a permanent establishment, these services may either be taxed in Algeria or only in the country of residence.

According to the tax administration's assessment, services physically performed outside Algeria by the company's headquarters are not taxable in Algeria but only at the location of the headquarters. In such cases, the self-assessment regime applies, and VAT is paid by the Algerian client.

Additionally, if the tax treaty applies reduced rates for certain royalties, the self-assessment regime for VAT also extends to this case.

2.2.2. Real estate work regime

- **Taxation under the actual regime**

Foreign non-resident companies executing real estate or EPC contracts are treated as having a taxable entity in Algeria subject to the same tax regime as resident companies.

In other words, these companies are subject to the standard tax regime with certain specificities, and they are taxed on their actual profits under IBS and VAT (unless the contract benefits from VAT exemptions).

- **Reporting obligations**

Such an entity must register with the Algerian tax authorities within one month of signing the contract, maintain actual accounting records, and submit monthly and annual tax declarations under the same conditions as resident companies.

- **EPC contracts and tax treaties**

Tax treaties signed by Algeria stipulate that a construction or assembly site may constitute a permanent establishment when it exceeds a certain duration specified in the treaty (between 3 and 9 months).

When a foreign company is deemed to have a permanent establishment in Algeria, the profits attributable to this establishment are taxed in Algeria.

Therefore, the supply of equipment and services physically performed outside Algeria are not considered charges attributable to the permanent establishment.

2.2.3. Specificities related to grouping

- **Grouping contract**

It is quite common for Algerian national agencies and other project owners to require foreign non-resident companies to form a partnership with a local company for executing the contract. A grouping under Algerian law may be created, which complicates the tax treatment of the contract.

As previously discussed, from a fiscal point of view, a grouping is a transparent entity. It cannot generate revenue by itself and should not report profits resulting from contract execution in its name.

The members of the grouping are deemed to generate the profits, which are distributed among them and taxed accordingly.

In general, a grouping contract distributes the contract amount among its members, and this may also be specified in the execution contract with the project owner. The foreign non-resident company will be taxed based on this distribution.

- **Invoicing and profit allocation issues**

Regarding invoicing, while the grouping is technically responsible for invoicing the project owner, it merely consolidates the invoices issued by its members and presents them under its name to the project owner.

The amount of the invoice is collected by the grouping and then transferred proportionally to each member's account based on their share.

Revenue and profits are attributed to the grouping members individually. Therefore, it is crucial that the project costs and expenses are borne directly by each member (according to their share of the work) and not by the grouping itself. In this way, each member will receive the payments due under the contract and will directly handle expenses related to the execution of their part of the contract. This ensures they maintain independent accounting and can apply the rules of profit attribution to the permanent establishment, where applicable.

2.2.4. Double taxation treaties

Since the fiscal reform of the 1990s, which shifted towards a market economy, Algeria has committed to developing its network of tax treaties.

Indeed, internal tax legislation did not encourage foreign investment due to its inability, in most cases, to provide solutions to international double taxation issues, thus failing to offer legal stability to potential investors.

International tax treaties have therefore filled this gap by offering practical solutions to double taxation problems.

2.2.4.1. General overview

International tax treaties have been developed and are now signed by many states eager to secure investors who may wish to establish operations in their territories. This security comes from the guarantee that the investor's profits or locally generated income will not be subject to double taxation.

The risk of double taxation arises because the foreign investor is typically taxed by two different states: one being their place of residence, and the other the origin of their income or profits. Both states, by applying their respective territoriality rules, impose taxes on the income or profits.

The goal of these treaties is to prevent or neutralize double taxation. They eliminate the risk by establishing harmonized criteria for tax residence and determining the place of taxation (either the residence or source of income) for each type of income. This harmonization of tax rules protects the investor and clarifies the applicable tax regime.

When treaties do not eliminate double taxation, they neutralize it through provisions for credit or exemption from the additional tax burden.

Tax treaties also provide further security for foreign investors as once ratified and entered into force, a treaty holds legal authority superior to that of domestic law.

The entry into force of a treaty is subject to the specific procedures of the contracting states, and it is essential to identify the exact date when the treaty's provisions begin to apply.

Thus, the treaty enters into force once both parties exchange ratification instruments. A signed treaty may not necessarily be applicable until this exchange is completed.

Tax treaties are also a tool for states to combat tax evasion and international fraud through enhanced communication between them.

2.2.4.2. List of conventions signed by Algeria

Algeria has a well-developed network of tax treaties, which has significantly expanded in recent years, in line with the investment development program.

Upon closer examination of this network, we observe that the majority of the treaties signed follow the OECD model, along with certain provisions from the UN model tax convention.

Here is a list of the conventions and agreements aimed at avoiding double taxation signed by Algeria:

Country	Date of Signature	Date of Ratification	Official Journal No.	Status
Austria	17/06/2003	28/05/2005	38-2005	In force
Bahrain	11/06/2000	14/08/2003	50-2003	In force
Belgium	15/12/1991	09/12/2002	82-2002	In force
Bulgaria	25/10/1998	29/12/2004	01-2005	In force
Canada	22/02/1999	16/11/2000	68-2000	In force
China	06/11/2006	06/06/2007	40-2007	In force
Egypt	17/02/2001	25/03/2003	23-2003	In force
Ethiopia	26/05/2002	Not ratified	-	Not in force
France	17/10/1999	07/04/2002	24-2002	In force
Germany	12/11/2007	14/06/2008	33-2008	In force
India	25/01/2001	Not ratified	-	Not in force
Indonesia	28/04/1995	13/09/1997	61-1997	In force
Iran	12/08/2008	12/05/2009	32-2009	In force
Italy	03/02/1991	20/07/1991	35-1991	In force
Japan	07/02/2023	07/02/2023	80-2023	In force
Jordan	16/09/1997	17/12/2000	79-2000	Not in force
Kuwait	31/05/2006	05/11/2008	66-2008	In force
Lebanon	26/03/2002	22/05/2006	35-2006	In force
Mali	31/01/1999	Not ratified	-	Not in force
Mauritania	11/12/2011	27/12/2015	70-2015	Not in force

Country	Date of Signature	Date of Ratification	Official Journal No.	Status
Netherlands	09/05/2018	31/07/2021	37-2020	Remains in force unless terminated by one of the parties.
Niger	26/05/1998	Not ratified	-	Not in force
Oman (Sultanate)	09/04/2000	08/02/2003	10-2003	In force
Poland	31/01/2000	Not ratified	-	Not in force
Qatar	05/08/1998	21/10/2010	70-2010	Not in force
Romania	28/08/1994	15/07/1995	37-1995	Not in force
Russia	10/03/2006	03/04/2006	21-2006	Not in force
Saudi Arabia	19/12/2013	27/12/2015	01-2015	In force
South Africa	28/04/1998	07/05/2000	26-2000	In force
South Korea	24/11/2001	24/06/2006	44-2006	In force
Spain	07/10/2002	23/06/2005	45-2005	In force
Switzerland	03/06/2006	28/12/2008	04-2008	In force
Syria	14/09/1997	29/03/2001	19-2001	Not in force
Tunisia	09/02/1985	11/06/1985	25-1985	In force
Turkey	02/08/1994	02/10/1994	65-1994	In force
Ukraine	14/12/2002	19/04/2004	27-2004	Not in force
UMA (Arab Maghreb Union)	23/07/1990	14/07/1993	06-1991	In force
United Arab Emirates	24/04/2001	07/04/2003	26-2003	In force
United Kingdom of Great Britain and Northern Ireland	18/02/2015	18/02/2015	33-2016	In force
Vietnam	06/12/1999	Not ratified	-	Not in force
Yemen	29/01/2002	26/02/2005	16-2005	Not in force

Source: Directorate General of Taxes and Ministry of Foreign Affairs.

2.2.4.3. Presentation and analysis of the OECD model

There is an OECD tax treaty model [106]. Nearly all treaties signed by Algeria follow this model, with some adjustments related to Algeria's specific tax provisions.

a) Scope of application

Regarding individuals, whether natural or legal persons, the treaty applies to persons residing in at least one of the two countries. This concept is important because it determines the individuals to whom the treaty applies. Regarding taxes, the OECD model provides that the treaty applies to various income and capital taxes. In Algeria, the following taxes are concerned: the global income tax, corporate profits tax, oil tax, mining profits tax, wealth tax, and inheritance duties.

b) Taxation of income

We will only address the most significant income.

- **Taxation of corporate profits**

The relevant provisions in this matter are those in Articles 5, 7, 8, and 9 of the OECD models. Thus, the profits of an enterprise of a contracting state are taxable only in that state unless the enterprise carries on business in the other contracting state through a

106 Model of tax convention on income and on wealth.

permanent establishment located there and to the extent that such profits are attributable to that permanent establishment.

The concept of permanent establishment is crucial because taxation is assigned to a state only if the existence of a permanent establishment is established in its territory, and profits are calculated based on the income attributable solely to that establishment.

The existence of a permanent establishment typically follows three criteria:
– Having a fixed place of business.
– A degree of permanence.
– The exercise, in whole or part, of an activity.

However, a specific rule applies to construction and assembly sites. The OECD model considers such sites as permanent establishments when they last more than 12 months. Most of the tax treaties signed by Algeria provide for a much shorter period (3 or 9 months).

Regarding service provision in Algeria, the OECD model and almost all the treaties signed by Algeria do not provide specific provisions. The Algerian tax administration taxes these services in Algeria, even if they do not constitute a permanent establishment based on the three criteria mentioned above. We refer to our discussion regarding the taxation of non-resident legal entities.

The OECD model allows a permanent establishment to deduct all expenses, even those incurred abroad, attributable to the permanent establishment when determining taxable income in Algeria. Domestic law has provisions related to associated enterprises, enabling the state to adjust transfer prices for transactions between these enterprises.

- **Taxation of salaries**

The OECD model provides that salaries, wages, and other similar remuneration received by an employee for their employment are taxable only in the state of residence. However, if the employment is exercised in the other signatory state, the remuneration received for such work is taxable in that other state. It can, however, be taxed only in the state of residence if the employee meets three cumulative conditions.

Thus, the employee is taxed in their state of residence if they stay in that state for more than 183 days during the relevant fiscal year, if the remuneration they receive is paid by an employer resident in their state of residence, and if it is not attributed to a permanent establishment of the employer in the state where the employment is exercised.

- **Taxation of royalties**

The OECD model provides that taxation occurs only in the state of residence of the holder of the intangible property for which the royalty is due. However, certain tax treaties, such as the Algerian-French treaty, provide for source-based taxation at the following rates:

– 5% for the use or concession of the use of a copyright.
– 12% for all other cases when the source state is Algeria.

- **Taxation of dividends**

Regarding dividends, the OECD model provides that they are taxable in the state of residence of the recipient. However, they may be subject to withholding tax in the state where the dividends are paid.

The OECD model provides for a general rate of 15%. However, this rate is generally reduced to 5% when the actual beneficiary is a company that directly or indirectly holds at least 25% or 10% (depending on the applicable treaty) of the capital of the company paying the dividends. This percentage varies depending on the various tax treaties signed by Algeria.

- **Taxation of interest**

For interest, the rule of shared taxation is also applicable. Interest is taxable in the state of residence of the recipient and may be subject to withholding tax in the state where it is paid.

The OECD model provides for a rate of 10%, but certain tax treaties may provide different rates depending on the state of origin of the interest.

- **Elimination of double taxation**

The OECD model provides two methods for eliminating double taxation: the exemption method and the credit method. The exemption method provides that the state of residence exempts income already taxed in Algeria, while the credit method allows the state of residence to credit the amount of tax paid in Algeria against the tax it collects.

2.2.5. Preferential tax regime

This concept refers to a situation where a person is considered to be subject to a preferential tax regime in a state or territory if they are subject to taxes on profits or income that are 40% or more lower than what they would have been liable to if they had been domiciled or established in Algeria under the common law conditions.

3. Control and disputes

3.1. Control procedures and guarantees for taxpayers

Tax audits can take various forms depending on the scope of the control operations, the taxes and duties to be verified, and the organizations conducting them. It can be carried out on an occasional, repetitive, periodic, or episodic basis. It can also be general or focus only on a specific tax or duty.

3.1.1. Declaration control

- **Definition**

The tax administration controls the declarations as well as the acts used to establish any tax, duty, or levy.

The declaration control includes the control of cash duty declarations, annual declarations, and document-based controls.

The first ensures that all taxes and duties to which the taxpayer is subject have been declared and that the figures are consistent with the reported turnover. The second ensures that annual declarations comply with current legislation and are accompanied by all required annexed documents, while the last involves a critical examination of the items listed on the declaration by comparing them with the information in the possession of the tax administration.

- **Audit procedure**

The audit can take place either at the tax administration offices (document-based audit) or at the concerned businesses' premises (on-site audit) during public opening hours and operating times.

The audit may require requests for explanations and justifications in writing. The auditor may also ask to examine the accounting documents related to the items, operations, and

data under review. The concerned businesses must present, at the tax administration's request, the books and accounting documents they hold.

This review may also lead, if necessary, to hearings of the concerned taxpayers or requests for verbal explanations. The taxpayer has at least 30 days to provide their response.

- **Rectification of returns**

Based on the new data from the audits, the auditor may rectify the declarations.

However, they must first inform the taxpayer in writing, explicitly indicating, for each adjustment point, the reasons and relevant articles of the tax code. The taxpayer is then invited to submit their acceptance or observations within 30 days. If no response is received within this period, the auditor sets the tax base, subject to the taxpayer's right to appeal after the regularization roll is established.

Document-based control is just an examination of various declarations and items in the tax administration's possession; it is distinct from a full accounting audit, which follows a specific procedure.

3.1.2. Accounting audit

A general or occasional accounting audit involves checking the accuracy of tax declarations and comparing them with accounting entries, as well as verifying the regularity and credibility of the accounting entries.

The accounting audit can also be used to combat tax evasion. A spot audit of accounting may focus on one or more taxes for all or part of the non-prescribed period.

Under this audit, it is now possible to refer to Article 169 bis of the Tax Procedure Code to control transfer pricing between companies within the same group, even if the audited company is not part of the Large Enterprises Directorate (DGE) [107].

A spot accounting audit follows the same rules as a general audit and does not prevent the tax administration from later conducting a thorough audit of the accounting records and reviewing the audited period.

The accounting audit is a strict and rigorous procedure in which the taxpayer benefits from numerous legal provisions ensuring guarantees during the tax audit.

Rejection of accounting:

Following an accounting audit, accounting rejection occurs if the administration demonstrates that the accounting records are not credible, which can happen in the following cases:

– The books, accounting documents, and supporting documents are not in compliance with Articles 9 to 11 of the Commercial Code, the financial accounting system, and other applicable laws and regulations.
– The accounting contains repeated errors, omissions, or inaccuracies in the recorded operations.

Note that the absence of supporting documents is no longer part of the above list [108]. Also, with the amendment made by the 2014 Finance Law, the link between accounting rejection and office taxation is no longer established [109].

107 Article 27, 2014 Finance Law.
108 Ibid. Article 28.
109 Ibid. Article 29.

3.1.2.1. Issuance of an audit notice

An accounting audit cannot begin without the issuance or hand delivery of an audit notice to the taxpayer, with a receipt confirmation, along with a charter outlining the rights and obligations of the audited taxpayer.

The audit notice must contain the names, surnames, and titles of the auditors, the date and time of the first intervention, the period to be audited, the taxes and duties concerned, as well as the documents to be reviewed. The spot audit notice must specify the occasional nature of the audit and provide details about the operations to be audited.

3.1.2.2. Granting a preparation period

A preparation period of at least 10 days from the receipt of the audit notice is mandatory to allow the taxpayer to gather their accounting documents.

However, auditors can begin, once the audit notice has been delivered to the taxpayer, the physical verification of operational elements (inventory of stocks, fixed assets, cash values, etc.) or the existence and condition of the accounting documents.

A contradictory statement must be drawn up at the end of the physical audit operations by the auditor with the taxpayer or their representative.

3.1.2.3. Assistance from an advisor

Under penalty of nullity of the audit, the taxpayer is notified, at the time the audit notice is sent, of their right to be assisted by an advisor of their choice during the audit procedure.

3.1.2.4. Location of the audit

The examination of accounting documents takes place at the audited taxpayer's premises. However, in cases of force majeure duly recognized by the administration, the taxpayer may request that the audit be conducted at the administration's premises.

3.1.2.5. Limitation of the duration of the accounting audit

On-site verification of declarations and accounting documents cannot, under penalty of nullity, exceed the time limits set by the applicable regulations. These are 3 months, 6 months, or 9 months, depending on the turnover of the audited company.

This duration could be extended in the following cases:

- In the case of force majeure duly recognized, in accordance with the provisions of the Civil Code, preventing the agents of the tax administration from conducting their on-site audit, for a duration equal to the period during which the tax administration agents could not carry out their on-site audit.
- Extended by the time given to the audited taxpayer, under Article 20 ter of the Tax Procedure Code, to respond to requests for clarification or justifications when there is a presumption of indirect profit shifting as defined in Article 141 bis of the Direct Taxes and Similar Taxes Code.
- This period is extended by one year when the tax administration, as part of administrative assistance and information exchange, requests information from other tax administrations. In accordance with the administrative assistance conventions, the Algerian tax administration has the ability to exchange information with countries that have signed an agreement with Algeria. This provision follows Algeria's accession to the Global Forum on Transparency and Exchange of Information.

On-site audits must be documented by a report, verified, and countersigned by the taxpayer. If the taxpayer refuses to sign, this must be noted in the report.

In cases of presumed indirect profit shifting as defined by the provisions of the Direct Taxes and Similar Taxes Code, the duration of the on-site audit is extended by the time given to the audited taxpayer to respond to requests for clarification or justification.

A pre-litigation procedure is established within the framework of the notification of adjustments. Specifically, the provisions of Article 20 of the Tax Procedure Code stipulate that the audited taxpayer must be informed, as part of the adjustment notification, that they have the option to request arbitration for factual or legal matters, as applicable, from the Director of Large Companies, the Director of Regional Taxes, the Head of the Tax Center, or the Head of the Research and Audits Service.

3.1.2.6. Inability to renew an audit following an accounting verification

When an accounting audit for a specific period, concerning a tax or group of taxes, is completed, and unless the taxpayer has used fraudulent manoeuvres or provided incomplete or inaccurate information during the audit, the administration cannot conduct a new audit, regardless of the type of the same records with regard to the same taxes for the same period.

3.1.2.7. Notification of adjustment

The results of the accounting audit must, without fail, be brought to the taxpayer's attention through a notification of adjustment, even in the absence of an adjustment or in case of rejected accounting.

This notification must be sent to the taxpayer by registered letter with acknowledgment of receipt or delivered to them with acknowledgment of receipt, and must be detailed and reasoned to allow the taxpayer to reconstruct the tax bases and make their comments or indicate their acceptance.

Under penalty of nullity, the notification must state that the taxpayer has the right to be assisted by an advisor of their choice to discuss the proposed adjustments or to respond to them.

- **Right to respond**

The taxpayer has 40 days to submit their comments or acceptance. Before the expiration of this period, the taxpayer may request a verbal explanation of the content of the notification. At the end of this period, they may also request additional explanations from the tax administration.

- **Inability to challenge the results of the audit by the administration**

If the taxpayer accepts the assessments made based on the notified bases, the notification becomes final and cannot be challenged by the administration.

If the taxpayer makes comments, these are either taken into account, resulting in a modification of the adjustment proposal, or rejected.

To strengthen the audit system established by the administration, a mechanism was introduced by the 2008 Complementary Finance Law aimed at consolidating the control framework through a new targeted audit. Tax administration agents may carry out a targeted audit of accounting for one or more taxes, for all or part of the non-prescribed period, or for a group of operations or accounting data for a period shorter than a fiscal year. This audit follows the same rules as those applicable in the case of a general audit.

The 2009 Finance Law created a fiscal investigations service within the General Directorate of Taxes, tasked at the national level with conducting investigations to identify sources of tax evasion and fraud.

3.1.2.8. Tax flagrancy offense

Article 18 of the 2010 Complementary Finance Law defines a tax flagrancy offense as "an audit carried out by the tax administration before any organized manoeuvre by the taxpayer, particularly aimed at insolvency arrangements."

The procedure occurs "in circumstances that could threaten the collection of future tax claims." It allows the tax administration to intervene to stop an ongoing fraud when sufficient evidence is gathered.

The administration has direct access to the accounting, financial, and social documents of the concerned individuals in real-time, even for periods for which the declarative obligation under the current tax legislation has not yet expired.

The application of the procedure is subject to prior approval by the central administration. The tax flagrancy procedure has fiscal consequences with regard to tax regimes, control procedures, and the right of recovery, notably [110]:

- The possibility of establishing provisional seizures by the tax administration;
- Exclusion from VAT exemption and derogatory regimes;
- The possibility of renewing a completed accounting audit;
- The possibility of extending the on-site audit duration;
- Extension of the statute of limitations by 2 years;
- Exclusion from the right to legal payment deferral of 20% and the payment schedule;
- Application of fines under Article 194 ter of the Direct Taxes and Similar Taxes Code;
- Inclusion in the national fraudster register.

3.1.2.9. Principle of abuse of rights

Article 25 of the 2014 Finance Law introduced the principle of "abuse of rights" in tax matters in Article 19 bis of the Tax Procedure Code (CPF), with the aim of challenging acts or agreements presented by taxpayers that conceal their true purpose. Cases of abuse of rights are scheduled for an accounting audit by the tax administration.

The 2018 Finance Law introduced provisions to strengthen the procedural framework governing tax abuse of rights.

The provisions of the Finance Law [111] provided more details on the qualification of acts constituting abuse of rights by modifying Article 19 bis of the CPF. The article stipulates that in the event of a disagreement on the basis of the correction made by the tax administration, the dispute is submitted, at the taxpayer's request, to the opinion of the Abuse of Rights Committee within 30 days of receiving the notification.

New articles (19 ter), (19 quarter), and (19 quinquies) were introduced in the CPF, which respectively provide for: (i) the exclusion of cases of abuse of rights for taxpayers who previously applied for a tax ruling; (ii) the composition and operation of the Abuse of Rights Committee; and (iii) the sanctions applicable in case of abuse of rights [112].

In the event of abuse of rights, all parties to the act or agreement are jointly liable, along with the corrected taxpayer, for the restitution of undue amounts, the payment of surcharges, and the application of criminal sanctions provided for fraudulent manoeuvres.

In addition to these surcharges, the abuse of rights procedure has fiscal consequences regarding tax regimes, control procedures, and the right of recovery, notably:

- Exclusion from the benefit of VAT exemption and derogatory regimes;
- The possibility of renewing a completed accounting audit;

110 Article 12, 2013 Finance Law.
111 Article 41, 2018 Finance Law.
112 Ibid. Article 42, 43 and 44.

– The possibility of extending the on-site audit duration;
– Extension of the statute of limitations by 2 years;
– Exclusion from the right to legal payment deferral of 20% and the payment schedule;
– Inclusion in the national fraudster register.

3.1.2.10. Tax ruling

The 2012 Finance Law established the procedure of "tax ruling." The tax ruling is intended to provide the taxpayer with practical protection against the potential qualification of abuse of rights by the administration concerning an operation or agreement they intend to carry out.

It offers a taxpayer the opportunity to consult the central Tax Administration in writing before entering into a contract or agreement by providing all the relevant details. The tax administration confirms or refutes, after review, the legitimacy of the taxpayer's request. This procedure allows the taxpayer to inquire about a factual situation in relation to a tax provision. The tax administration commits to its assessment. In this regard, the administration cannot proceed with any additional taxation based on a different interpretation of the situation.

However, only taxpayers under the Large Enterprises Directorate (DGE) may benefit from this guarantee, and it must be shown that the taxpayer's good faith interpretation was accepted by the administration through a clear and complete written request.

The administration is supposed to formally respond to this request within 4 months. If no response is provided, this counts as acceptance by the administration.

It is also important to note that if the administration has formally responded to this request, the taxpayer can ask the administration for a second review of the request within 2 months, provided no new elements are introduced. The 4-month deadline also applies to this second request.

3.2. Litigation

There are two types of appeals:

– The contentious appeal comes in different forms. We will take a closer look at the appeals available to taxpayers governed by the Large Enterprises Directorate (DGE) and briefly explore the specificities of the appeals available to other taxpayers.
– The administrative appeal is available to a taxpayer who is in a state of difficulty or indigence, making it hard for them to fully settle their debt to the Treasury. It allows the taxpayer to request from the tax administration a remission or reduction of direct taxes, surcharges, or tax penalties.

3.2.1. Preliminary administrative appeal

This first concerns claims aimed at rectifying errors made in the assessment or calculation of taxes.

These are claims from taxpayers who believe they have been unfairly taxed (request for exemption) or overtaxed (request for reduction) or who claim to have made undue payments or withholdings, at the source, when these payments relate to taxes not established through official channels (request for refund).

Secondly, it involves requests for benefits arising from a legal or regulatory provision. This concern regularly established or collected taxes that could be contested due to a particular situation or event as outlined by a legal text.

a) Competence of the DGE director

The DGE director is responsible for handling claims related to taxes and duties managed by their services and for ruling on cases where the total amount of the adjustment does not exceed 400 million DA without the approval of the central administration.

The DGE director can delegate their decision-making power to agents under their authority for ruling on contentious claims. The conditions for granting this delegation are set by a decision of the Director General of Taxes.

The director has 6 months to issue a decision regarding reduction, partial admission, or rejection. After this period, it is considered an implied rejection decision when the claim concerns a case where the total amount of the adjustment exceeds 400 million DA. The DGE director must obtain the approval of the General Directorate of Taxes in such cases. In this case, the deadline for ruling is 8 months.

Note: For taxpayers not under the DGE, appeals are directed to the regional tax directors or heads of tax centers.

b) Processing of the claim

• Formal conditions

The claim constitutes the first step in the contentious tax procedure. The taxpayer can only refer the matter to the central commission or the court after their claim has been rejected.

The claim addressed to the DGE:

– Must be written on plain paper.
– Must be individual (except for partners in partnerships, who may file a collective claim regarding the company's taxation).
– Must mention the contested tax or duty, justify the amount of the payment or withholding made, and present the grounds and conclusions of the claimant.
– Must be signed by the claimant.

• Deadlines

Under penalty of inadmissibility, the claim must be submitted no later than December 31 of the second year following the year in which the events that triggered the claim occurred.

Thus, the claim is admissible until December 31 of the second year following the year in which the tax was paid, and for withholding taxes, until December 31 of the second year following the year in which the withholdings were made.

The date to be used to assess the deadline is the date of receipt of the claim by the administration or the postmark.

c) Domicile election in Algeria

Any claimant residing abroad must designate a domicile in Algeria for the purpose of notification regarding their request.

d) Legal payment suspension

The taxpayer contesting the validity or amount of the taxes assessed against them can defer the payment of 80% of the amount due until the director's decision is made. The payment suspension only applies to preliminary claims.

- **Conditions for granting the payment suspension**

– Firstly, the claim must be filed within the deadlines and conditions mentioned above.
– The taxpayer must justify the payment of 20% of the due amount by providing the payment receipt.
– Finally, the taxpayer must explicitly invoke the provisions of Article 74 of the CPF, which allows the taxpayer to request a payment suspension regardless of the origin of the contested taxes, specifying the amount or bases for the exemption they believe they are entitled to.

In the case of foreign companies with no permanent establishment in Algeria, when the tax debt relates to a contract nearing completion, the collector must require the full payment from taxpayers not established in Algeria, unless they provide bank guarantees or other assurances to cover the later recovery of the sums owed.

- **Effect of the payment suspension**

It suspends any coercive action against the claimant. It also suspends the statute of limitations for the administration's recovery action.

However, it does not interrupt the accrual of collection penalties. It loses its effect only when the decision is made, even if it is made after the deadline.

If the administration's decision does not satisfy the taxpayer, they can choose to refer the matter to the competent appeals commission or the judicial authority. For taxpayers under the DGE, this is the central commission.

e) Competence of the central tax administration

The central administration is required to issue an opinion on claims related to the DGE that concern cases where the total amount of the adjustment exceeds 400 million DA, within 2 months.

Note: For taxpayers not under the DGE, the central administration rules on contentious claims related to audits conducted by the Research and Auditing Directorate (DRV), which has national competence.

The central administration also rules on contentious claims where the total amount of taxes and penalties exceeds 200 million DA, for which local authorities (regional tax directors) are required to seek the central administration's approval.

3.2.2. Appeal before the central commission

It is available to the taxpayer after the total or partial rejection of a prior claim by the DGE director and before referring the case to the court.

Skills of the central commission:

– The Central Appeals Commission is the highest authority in matters of contentious appeals. It is responsible for disputes involving taxpayers governed by the DGE (General Directorate of Taxes) and concerning direct taxes and VAT.
– It is called upon to issue opinions on requests for either the correction of errors in the assessment or calculation of taxes or the benefit of a right derived from a legal or regulatory provision.

Note: Regarding taxpayers not governed by the DGE, the competent commission, depending on the significance of the contested adjustment, may be the Wilaya Commission, the Regional Commission, or the Central Commission.

- The first is only competent when the amount of direct taxes and VAT adjustments is less than 2 million DA and for which the administration has previously issued a decision of total or partial rejection.
- The second is competent when the same amount is greater than 2 million DA but less than or equal to 70 million DA and for which the administration has previously issued a decision of total or partial rejection.
- The Central Commission is competent for adjustments to direct taxes and VAT exceeding 70 million DA and for which the administration has previously issued a decision of total or partial rejection.

a) Deadline for submission

The commission must be seized within 4 months from the date of notification of the director's decision.

b) Effect of the central commission's opinion

Depending on the case, the director of the DGE must notify the decision of tax relief or rejection, indicating the reasons and legal grounds on which it is based. This decision must comply with the opinion of the Appeals Commission within 30 days of receiving the commission's opinion.

If the commission's opinion does not fully satisfy the taxpayer, they may, as a last resort, seek judicial recourse.

3.2.3. Judicial recourse

Tax disputes fall under the category of administrative litigation, with jurisdiction granted to the administrative judge.

Judicial action in tax matters concerns legal and/or financial issues, such as actions for tax relief, reduction, or refund of taxes.

It begins with the filing of the case before the Court of First Instance and may continue, if necessary, before the Council of State, which acts as the appellate court in full litigation.

Decisions rendered in cases related to indirect taxes are final and may only be subject to an appeal in cassation.

a) Appeal before the administrative court

- **Seizing the judge**

The taxpayer may appeal if the decisions taken by the DGE on prior claims or after the opinion of the commissions do not satisfy them, or if there is an implied rejection decision by the DGE. In these cases, the complaint must be filed within 4 months from the implied rejection decision or from the notification of the DGE's decision, whether or not it follows a commission's opinion. The tax administration may also initiate action.

- **Procedure for implementing judicial action**

The judicial process in tax matters is initiated by filing a request for the introduction of the case with the administrative court registry.

The request must meet certain formal conditions: it must explicitly state the grounds and be written on stamped paper, signed by the petitioner.

The request can only concern the assessments mentioned in the prior claim to the DGE. However, within this limit, the taxpayer may include new conclusions in the request.

b) Appeal before the Council of State

Rulings made in tax matters by administrative courts may be appealed to the Council of State.

The appeal must be filed with the registry of the Council of State in the form of a petition signed by an authorized lawyer.

The appeal deadline is one month from the date of notification of the decision rendered by the administrative court.

4. Taxation of groups

Equity participations can result from a process of creating subsidiaries, either from an activity or from an entire department of an existing company. In this case, the parent company holds the majority or even the entirety of the capital of its subsidiaries, especially when they are formed as sole proprietorships (EURL). These subsidiaries may themselves create sub-subsidiaries that they control. This structure forms a pyramid-like arrangement, in which the parent company is called the parent company, holding company, or even portfolio company. The reason for this designation is that the parent company manages its financial interests within the group. As the majority shareholder of its subsidiaries, it holds political power in their general meetings and in the meetings of sub-subsidiaries through the subsidiaries it controls.

4.1. Definition of the group

Although the notion of a corporate group is more of a fiscal concept than a legal one, the Commercial Code also attaches significant legal effects to the relationships between a parent company and its subsidiaries.

- **Legal definition of a corporate group**

The Commercial Code does not formally recognize the notion of a corporate group. It focuses more on the concepts of subsidiaries, participations, and controlled companies.

In the absence of legal provisions, the group does not have legal personality. The companies composing it retain their own legal personality and are legally independent.

Thus, the parent company is not responsible for the obligations contracted by its subsidiary and cannot offset one of its debts with a claim that its subsidiary holds against the same creditor.

However, this principle has some exceptions in the case of collective proceedings. In fact, the legal or de facto managers of a company undergoing judicial recovery or liquidation may be held financially responsible for the company's liabilities through actions aimed at making up and extending the liabilities. In this context, a parent company may be considered a legal or de facto manager of its subsidiary.

Moreover, the fictitious nature of a subsidiary allows for the initiation of a collective procedure against the parent company that acted under the guise of the subsidiary. Creditors can invoke the theory of appearance and demand payment from the parent company for its subsidiary's debt if they were justified in believing that both companies were, in reality, one entity.

A subsidiary is defined by the Commercial Code as a company in which more than 50% of the capital is held by another company. When the ownership is between 10% and 50%, it is considered a participation.

A company is considered to control another when it directly or indirectly holds a share of the capital granting it the majority of voting rights in that company's general meetings, when it has sole control of the majority of voting rights under a shareholders' agreement, or when it, in practice, determines decisions in the general meetings of the company through the voting rights it holds. In such cases, the controlling company is called a holding company.

- **Tax definition of a group of companies**

Tax legislation differs from common law by providing a specific definition, as well as particular conditions. Exemption and tax incentive provisions will only apply to a group defined according to tax law.

The tax law defines a group of companies as any economic entity consisting of two or more legally independent Public Limited Companies (SPA), where one, called the "parent company," controls the others, called "members," by holding directly 90% or more of the share capital, and where the capital cannot be wholly or partially owned by these companies or by an eligible third-party company acting as the parent company with 90% or more ownership.

Thus, several conditions must be met:

– Firstly, the companies must be organized as SPAs. Therefore, companies organized under other forms (SARL, SNC, EURL, etc.) are excluded from eligibility for the corporate group regime.
– Lastly, the share capital of the member company must be directly held by the parent company at a rate of at least 90%, and the share capital of the parent company must not be directly held by an eligible third-party company at 90% or more.

Finally, the share capital of the parent company must not be wholly or partially held, directly or indirectly, by the member companies.

Certain companies are explicitly excluded from the corporate group regime. For example, any company whose main activity relates to the exploitation, transport, processing, or marketing of hydrocarbons and derivative products cannot qualify for the corporate group tax regime.

4.2. Applicable regime

4.2.1. Legal regime

When a company acquires a stake representing more than 50% of the capital of another company, or ensures control over it, this must be mentioned in the annual report submitted to the general meeting of shareholders. The report must also account for the activity and results of subsidiaries and companies under its control.

Companies must publish consolidated accounts and a group management report annually, once they control other companies or exert significant influence over them. These accounts include the balance sheet and income statement of the concerned companies.

The consolidation of the group's accounts is carried out depending on the level of dependency, using full consolidation, proportional consolidation, or equity accounting.

Full consolidation involves fully replacing the parent company's investment account with the balance sheets and income statements of the consolidated companies to establish the group's unique consolidated balance sheet and income statement. This applies to companies that are wholly controlled by the parent company.

In this case, intra-group debts and receivables, expenses, revenues, intra-group stock profits, and dividends received from subsidiaries by the parent company are eliminated from the consolidated accounts.

Proportional consolidation involves replacing, based on the percentage of ownership, the parent company's investment account with the balance sheets and income statements of the consolidated companies, to establish the unique consolidated balance sheet and income statement of the group. This applies to companies where control is shared by a limited number of shareholders.

Equity accounting involves replacing the parent company's investment account with its share of the equity, including the profit of the period of the companies accounted for under the equity method; it applies to companies in which the consolidating company exerts significant influence through holding at least one-fifth of the voting rights.

The Commercial Code prohibits a SPA from holding shares in another company if that company holds more than 10% of its capital.

4.2.2. Tax regime

The tax regime for corporate groups is a preferential regime granted on an optional basis. It allows the consolidation of taxable profits for the entire group's member companies under the Corporate Income Tax (IBS) and offers certain tax benefits.

a) Applicable tax rates

The IBS tax rates by sector of activity are determined as follows [113]:

- 19% for production activities of goods.
- 23% for construction, public works, hydraulics, and tourism activities (excluding travel agencies).
- 26% for other activities.

If the activities carried out by the group's member companies fall under different IBS tax rates, the profit resulting from the consolidation will be taxed at each applicable rate based on the proportion of the declared revenues for each activity segment.

b) Consolidation of profits

The consolidated balance sheet regime involves producing a single balance sheet for the entire group and maintaining unified accounts that represent the activity and overall situation of the group companies.

The regime of consolidated profits is only granted if the parent company opts for it and all member companies accept it. It should be noted that the current tax regulations do not distinguish between opting for the consolidated balance sheet regime and opting for the tax regime for corporate groups itself.

Indeed, by opting for the consolidated balance sheet regime, the group automatically adopts the tax regime for corporate groups.

The option made is irrevocable for a period of 4 years.

Deductions for legally limited expenses are allowed for each company. Each member company may claim the authorized deduction within these limits.

113 Article 2, 2015 Complementary Finance Law for.

c) Tax benefits granted

— Regarding IBS (Corporate Income Tax)

In addition to provisions applicable to all companies under common law, particularly the exemption from IBS on dividends received by companies due to their shareholding in other companies, the corporate group tax regime provides an exemption from capital gains tax on the sale of assets in the context of asset exchanges between the companies that are members of the same group.

However, the main benefit provided by the corporate group tax regime in terms of corporate income tax (IBS) is the consolidation of profits, which allows for the determination of an overall adjusted result for the entire group, considering it as a single economic entity, and then subjecting this result to corporate income tax (IBS). This tax is therefore generally reduced in the presence of a deficit, incurred by one or more member companies.

— Regarding VAT (Value Added Tax)

Intra-group transactions are exempt from VAT. VAT also benefits from the consolidation regime.

It is also stated that those liable for VAT who consolidate their accounts at the parent company level, as per the provisions of Article 138 bis of the CIDTA, can, since the Complementary Finance Law of 2009, deduct VAT on goods and services purchased by or for their various group member companies under the same conditions.

This measure allows for the consolidation of VAT at the parent company level to enable the recovery of this tax, avoiding the creation of structural withholding taxes.

— Regarding registration fees

Acts related to the transformation of companies eligible for the corporate group tax regime in view of their integration into the group, as well as acts documenting asset transfers between companies within the same group, are exempt from registration fees.

However, in both of the previous cases, the companies are required to complete the registration formalities.

d) Declaration obligations of corporate groups

— Annual declaration

Companies that have opted for the corporate group tax regime are required to submit their annual IBS declarations, along with their tax filings, to the management service of the DGE. The parent company must submit the consolidated balance sheet (tax filing and declaration) to the management service of the DGE.

The subsidiaries linked to the parent company must also submit their tax declarations to the same service, marking their declaration with the mention "subsidiary member of the group."

— Financial facilities granted to the group

Cash transactions between companies within the same group are common. Automatic cash centralization allows for the consolidation of balances from secondary accounts, whether they are debit or credit, or only credit balances, or even each transaction from the secondary accounts of the group companies into a single central account. The central account may be that of the parent company or one of the group's subsidiaries.

This technique eliminates the need for banks to process loans and cash advances. It does not violate the principle of the monopoly of credit institutions. Indeed, Article 79 of Ordinance No. 2003-11 of August 26, 2003, regarding currency and credit, deviates from the principle that only a bank or a financial institution can provide credit under Article 68 of the law.

Article 79 allows any company to "carry out treasury operations with companies that have, directly or indirectly, a capital relationship that confers effective control over the others."

Additionally, the prohibition for directors of SPAs and managers or partners of SARLs to borrow from the company, or to have their commitments to third parties guaranteed by the company, is lifted when dealing with legal entities. Therefore, a subsidiary may provide advances or guarantees to the parent company, even if the parent company is a member of its board of directors or, in the case of a SARL, a partner or manager.

These agreements may be subject to prior authorization procedures.

Financial support provided by the managers of one company to another may be considered detrimental to the interests of the first company by some of its partners, often minority ones.

CHAPTER 15

Judicial system

The Algerian judicial system is governed by a two-tier jurisdiction system, consisting of both an ordinary judicial order and an administrative judicial order.

The Organic Law No. 22-10 of June 9, 2022, relating to the judicial organization, established the ordinary judicial order, which includes the Supreme Court, Courts, and Tribunals, and the administrative judicial order, which includes the Council of State, Administrative Appeal Courts, and Administrative Tribunals.

1. Judicial organization

1.1. Ordinary judicial order

1.1.1. Tribunals

These are first-degree courts. They are divided into sections: civil section, commercial section, social section, etc.

They handle all civil, commercial, and social cases for which they have territorial jurisdiction. Their decisions can be appealed before the Court.

Tribunals are located in the capitals of the courts. One or more tribunals may be established within the same municipality. Their territorial jurisdiction can extend to several municipalities or communal delegations [114].

Their jurisdiction includes the following matters:
- Property seizure
- Settlement of orders and auctions
- Judicial seizure and sale of ships and aircraft
- Exequatur (enforcement of foreign judgments)
- Disputes related to workplace accidents, bankruptcies, judicial settlements, and requests for the sale of business assets with a registered lien.

The tribunal is the court of general jurisdiction, and it is composed of sections where cases are filed based on the nature of the dispute.

However, in courts where certain sections have not been established, the civil section remains competent to handle all disputes except those related to social litigation.

114 Article 8 bis of Executive Decree No. 20-224 of August 8, 2020, amending and supplementing Executive Decree No. 98-63 of February 16, 1998, setting the jurisdiction of the Courts and the modalities for the application of Ordinance No. 97-11 of March 19, 1997, on judicial division.

Specialized poles sitting in certain courts exclusively deal with disputes relating to international trade, bankruptcy and judicial settlement, banking, intellectual property, maritime disputes, air transport, and insurance matters.

Algerian law provides a jurisdictional privilege in favor of Algerian litigants, meaning that any foreigner, even if not residing in Algeria, can be summoned before Algerian courts for the execution of obligations contracted in Algeria with an Algerian. They can also be summoned before Algerian courts for obligations contracted in a foreign country with Algerians. Conversely, an Algerian can be brought before Algerian courts for obligations in a foreign country, even with a foreigner.

Foreign ordinances, judgments, and rulings cannot be enforced within the territory of Algeria unless they have been declared enforceable by Algerian courts.

The request for the exequatur of foreign ordinances, judgments, rulings, acts, and enforceable titles must be presented to the court sitting at the capital of the court in the place of the defendant's residence or the place of execution, which will verify that they meet the following conditions:

– They do not violate rules of jurisdiction;
– They have acquired the force of res judicata in accordance with the laws of the country where they were rendered;
– They are not contrary to ordinances, judgments, or rulings already rendered by Algerian courts, and which the defendant invokes;
– They are not contrary to public order or morals in Algeria.

Similarly, acts and authentic titles established in a foreign country cannot be enforced in Algeria unless they have been declared enforceable by Algerian courts, which verify that they meet the following conditions:

– They meet the required conditions for authenticity under the laws of the country where they were established;
– They are enforceable titles and can be executed in accordance with the laws of the country where they were established, and they are not contrary to public order or morals in Algeria.

These rules do not prejudice those provided for by international conventions and judicial agreements concluded between Algeria and other countries.

• Procedure before the courts

The court is seized by the filing at the registry of a written citation, dated and signed by the claimant. Every citation must indicate the name and residence of the recipient, the designation of the competent court, a brief summary of the subject and the grounds of the claim. When it concerns a company, the citation must indicate the company's name, nature, and registered office.

The citation is delivered by the court clerk, sent by registered mail, or through administrative channels. If the recipient does not have a known address in Algeria, the citation is sent to their usual place of residence. If they reside abroad, the prosecutor must send a copy to the Ministry of Foreign Affairs or any authority authorized by diplomatic agreements.

Regarding the hearing and judgment, judges can rule every day, even on public holidays. The hearings are public.

The court is competent to order investigative measures and expert opinions. It can also order an inspection of the premises and investigations into facts that can be verified by witnesses, and whose verification seems admissible and useful for the case's investigation.

Default judgments can be challenged by opposition within one month from the date of service. Once the citation has been delivered personally, the judgment rendered by the court is considered adversarial and thus cannot be opposed.

1.1.2. Courts

It is before the courts that the appeal of judgments from the tribunals is exercised. The appeal period is one month from the date of personal service of the contested decision. It is two months when service is made to the actual or elected domicile. Regarding judgments rendered by default, the appeal period does not start until the expiration of the opposition period.

The appeal is, in principle, suspensive. However, the law may decide otherwise. The appeal is filed by a motivated summons, signed by the party appealing.

The periods for opposition, appeal, annulment request, and cassation appeal are two months for individuals residing outside the national territory.

The case is handled on appeal in the same manner as before the tribunal. The parties appear, either personally or through their lawyers.

The court will deliberate after closing the debates and indicate the day on which it will deliver its judgment.

All judgments rendered on summonses, briefs, or conclusions are considered adversarial, even if the lawyers have not made oral submissions during the hearing.

Judgments rejecting an exception or a plea of inadmissibility and ruling on the merits are also deemed adversarial, even if the party who raised the exception or plea of inadmissibility failed to make alternative submissions on the merits.

All other judgments are rendered by default. These judgments can be opposed within one month before the courts that issued them. The period begins from the service of the decision (judgments or rulings).

1.1.3. Supreme court

The Supreme Court is the regulating body for the activity of the tribunals and courts.

The Supreme Court is competent to rule on cassation appeals filed against rulings and judgments rendered in final instance by the courts and tribunals.

A cassation appeal can only be based on grounds such as:
- Violation of substantial procedural forms;
- Omission of substantial procedural forms;
- Incompetence;
- Abuse of power;
- Violation of domestic law;
- Violation of foreign law relating to the Family Code;
- Violation of international conventions;
- Lack of legal basis.
- Lack of reasons;
- Insufficient reasoning;
- Contradiction between the reasons and the ruling;
- Distortion of the clear and precise terms of a document included in the judgment or ruling;
- Ruling on matters not requested, or awarding more than was requested;
- Failure to rule on a claim;
- Failure to defend incapacitated persons.

The deadline for filing a cassation appeal is 2 months from the personal service of the contested decision, and it is 3 months when service is made to the actual or elected

domicile. Regarding judgments and rulings rendered by default, the deadline for cassation appeal only starts after the expiration of the opposition period.

For individuals residing outside the national territory, the appeal deadlines are extended by 2 months.

Appeals before the Supreme Court do not suspend execution, except in matters concerning the status and capacity of persons, and in cases involving a false incident.

The representation of parties must be carried out by lawyers authorized by the Supreme Court. The State, the wilaya (province), the municipality, and public institutions with an administrative character are exempt from the obligation to appoint a lawyer.

The procedure before the Supreme Court begins with a written petition signed by an authorized lawyer. The petition must, under penalty of nullity, contain the following three details:

– The name, first names, profession, status, and address of the parties;
– A copy of the contested decision;
– A brief summary of the facts, along with the grounds for the appeal before the Supreme Court.

Within one month of filing the petition, the applicant may file an additional brief expanding on their arguments.

Rulings of the Supreme Court are motivated. They refer to the texts applied in the case. In the case where the appeal is accepted, the Supreme Court annuls all or part of the contested decision and refers the case either to the same court with a different composition or to another court of the same order and level as the court whose decision is annulled. The court to which the case is referred after cassation must comply with the decision on the legal issue ruled on by the Supreme Court.

Decisions of the Supreme Court are notified by the court clerk's office and by registered letter with acknowledgment of receipt to the parties to the case as well as to their lawyers. They are similarly communicated to the court whose decision was contested.

1.1.4. Overview of the system of legal recourse

	Filing	Instructions	Closing of the debates	Pronouncement of the decision
Supreme Court	Appeal for cassation by written petition signed by the lawyer - (within 2 months from the notification of the decision to the person, 3 months if the notification is made to the actual or elected domicile).	Judge in law	Case deliberation	Pronouncement of the annulment of the court's decision or its confirmation.
Court	Filing by motivated summons from the party dis-missed in the first instance (within 1 month from the date of the contested decision - 2 months if the notification is made to the actual or elected domicile).	Instruction of the case	Case deliberation	Pronouncement of the judgment which confirms or overturns the tribunal's decision.
Common Law Court	Filing by deposit at the registry of the summons	Instruction of the case	Case deliberation	Pronouncement of the judgment and notification of the decision.

1.2. Specialized jurisdictions

- **Criminal Court:** At each Court level, there is a first-instance criminal court and an appeal criminal court, whose jurisdiction, composition, and functioning are set by the current legislation.
- **Military Jurisdictions:** The rules relating to the jurisdiction, organization, and functioning of military jurisdictions are set by the Military Justice Code.
- **Specialized Commercial Court:** (Cf. Art. 536 bis Law No. 22-13 of July 12, 2022). The specialized commercial courts were established under Law No. 22-13 of July 12, 2022, aimed at supporting and energizing investment and commerce. They have jurisdiction over the following types of cases:
  - Cases related to intellectual property;
  - Cases concerning commercial companies, especially those related to partners, dissolution, and liquidation of companies;
  - Judicial settlement and bankruptcy;
  - Cases involving banks and financial institutions with merchants;
  - Maritime cases, air transport, and insurance related to commercial activities;
  - Cases related to international trade.

1.3. Administrative judicial order

1.3.1. Administrative courts

Administrative courts were established by Law No. 98-02 of May 30, 1998 (repealed). The procedural rules for administrative courts are determined by the Civil and Administrative Procedure Code.
Administrative courts are organized into chambers, which are further subdivided into sections, and they serve as the general supervisory jurisdiction in administrative disputes, ruling in first instance on judgments that are appealable in all matters where the State, Wilaya, commune, or any public administrative entity is a party.
They are competent to rule on actions for annulment, interpretation, and assessment of the legality of decisions made by:

- The Wilaya, as well as the decentralized state services operating within it;
- The commune;
- Regional professional organizations;
- Local public establishments of an administrative nature.

1.3.2. Administrative courts of appeal

Administrative courts of appeal were established by Organic Law No. 22-10 of June 9, 2022, concerning judicial organization, and Law No. 22-07 of May 5, 2022, on judicial reorganization.

The administrative court of appeal hears appeals against the judgments and orders rendered by administrative courts, and its aim is to strengthen the principle of the double degree of jurisdiction, which is one of the fundamental pillars of justice.

It guarantees a fair trial, the proper functioning of justice, the right to defense, ensures judicial security, and fosters trust among litigants by giving a harmed person the opportunity to bring their case before these judicial bodies to ensure the integrity of the decision made by the administrative courts. It also hears matters referred to it by specific legal provisions.

The creation of this body stems from the provisions of the aforementioned law, which aims to realize the duality of the Algerian judicial system.

Moreover, the administrative court of appeal is also competent to:

- Rule on appeals against judgments and orders of the administrative courts;
- Handle specific cases in accordance with the applicable laws;
- Hear in first instance annulment, interpretation, or assessment actions against administrative acts of central authorities, national public institutions, and national professional organizations;
- Serve as the appellate body for orders issued in interim proceedings by the administrative court;
- Resolve conflicts of jurisdiction between two administrative courts of appeal or between an administrative court of appeal and the Council of State, by ruling on the existence of a connection between the matters;
- Prepare annual reports on their activities and those of the administrative courts. These reports are submitted to the Council of State, which will use them in preparing the annual report to be submitted to the President of the Republic.

- **Composition of the administrative court of appeal**

Administrative courts of appeal are composed of at least three judges, including a president and two assessors holding the rank of counselor.

1.3.3. Council of State

By Executive Decree No. 98-262 of August 29, 1998, setting out the modalities for transferring all cases registered and/or pending before the administrative chamber of the Supreme Court to the Council of State, "all cases registered and/or pending before the administrative chamber of the Supreme Court, excluding cases that are ready for judgment," are transferred to the Council of State.

The aforementioned Organic Law No. 98-01 makes the Council of State the regulatory body for the activity of administrative jurisdictions. It ensures the unification of administrative case law throughout the country and ensures compliance with the law.

The Council of State enjoys independence in exercising its judicial powers and has the competence to rule in first and final instance on:

- Actions for annulment, interpretation, or assessment of the legality of administrative acts [115] issued by central administrative authorities, national public institutions, and national professional organizations.
- Actions for interpretation and assessment of the legality of acts that fall under the jurisdiction of the Council of State (e.g., decisions by a minister, a wali, or an independent administrative authority).

On appeal, the Council of State hears decisions rendered by lower jurisdictions (tribunals and courts). It is also the court of cassation for decisions rendered by administrative jurisdictions in final instance.

The procedure before the Council of State is governed by the provisions of the Civil and Administrative Procedure Code (CPC) that apply to judicial procedures.

115 Article 9, Organic Law No. 11-13 of July 26, 2011, amending and supplementing Organic Law No. 98-01 of May 30, 1998, relating to the powers, organization, and functioning of the Council of State.

1.3.4. Specificities of administrative procedure

According to Law No. 08-09, amended and supplemented, which pertains to the Civil and Administrative Procedure Code, administrative courts are the common law jurisdictions for administrative litigation. They have jurisdiction in first instance and on appeal for all cases where the State, Wilaya, commune, or a public administrative institution is a party.

Administrative courts are also competent to rule on actions for annulment, interpretation, and assessment of the legality of administrative acts issued by:

- The Wilaya, as well as the decentralized state services operating within it;
- The commune and other municipal administrative services;
- Local public establishments of an administrative nature;
- Actions for full jurisdiction;
- Cases referred to them by specific legal provisions.

Certain matters are mandatorily brought before administrative courts, such as:

- Matters related to taxes and duties, in place of taxation and assessment;
- Public works, in place of their execution;
- Administrative contracts of all kinds, in place of their award or execution;
- Disputes involving government employees or agents or other individuals within public administrative institutions, in place of their assignment;
- Medical services, at the location where they were provided.
- In matters of supplies, works, leasing of work or industry, at the place where the contract was made or where it was executed, when one of the parties is domiciled in that place;
- In matters of difficulty in executing a decision rendered by an administrative court, at the location of the court that rendered the decision.

The administratively competent court to hear a main claim is also competent for any additional, incidental, or counterclaims that fall under the jurisdiction of administrative courts. It is also competent to hear exceptions related to the jurisdiction of an administrative court.

The administrative court is seized by a written and signed request from the party or a lawyer registered with the national bar association. It is filed with the court clerk's office upon payment of the court fee, unless the law provides otherwise. The request must be accompanied by the decision being contested.

An individual can only seize the administrative court through an appeal against an administrative decision. The appeal must be filed within 4 months from the date the individual is notified of a copy of the individual administrative act or the publication of the collective or regulatory administrative act.

The administrative chambers of the courts are replaced by administrative courts. This means that in administrative matters, the two levels of jurisdiction are maintained. From now on, the decisions rendered by the courts can only be appealed before the administrative court of appeal. The appellant before the administrative court has a period of 4 months from the notification of a copy of the individual administrative act or the publication of the collective or regulatory administrative act.

1.3.5. Synthesis of the appeals system

	Filing	Instructions	Pronouncement of the Decision
Council of State	It hears appeals regarding the interpretation of the legality of administrative acts. It rules on cassation appeals against decisions rendered as the final instance by administrative courts, and it hears cases entrusted to it by special laws. The deadline for filing a cassation appeal is 2 months from the notification of the decision.	Case Instruction on Appeal	It annuls and quashes, or conversely, confirms the decision of the administrative court of appeal (the appeal must be filed within 2 months from the notification of the appeal court's judgment).
Administrative Court of Appeal	It hears appeals against judgments and orders made by administrative courts. The deadline for appealing judgments is 2 months (15 days for interim orders).	Case Instruction	Pronouncement of the ruling which confirms or overturns the decision of the court.
Administrative Court	It is seized by the filing of the summons at the court registry.	Case Instruction and Deliberation	Pronouncement of the judgment and notification of the decision.

2. Competence of the courts and tribunals in matters related to emergency procedures

Many contracts concluded between Algerian companies and foreign companies, particularly equipment contracts and, more generally, contracts with successive performance, give rise, at the stage of their execution, to the referral of Algerian courts in order to pronounce emergency measures. Algerian law distinguishes in this regard between emergency measures, payment orders, and summary proceedings.

- **Emergency measures**

Algerian courts have jurisdiction to issue emergency measures, which are requested from the court competent in the main matter. The judge issues an order confirming the alleged emergency situation presented by the applicant. If the request is rejected, an appeal can be made against this order, provided it was issued by the president of the first-instance court.

- **Payment orders**

Any request for the payment of a debt that is liquid, due, and payable is admissible if it seeks a payment order procedure. The applicant must attach all documents supporting the existence and amount of the debt. If the judge accepts the request, he will authorize the notification of a payment order (which means the debt is justified). Otherwise, he will reject any recourse for the applicant, except for the applicant to exercise the common law recourses.

When the decision is subject to appeal, the deadline for appeal is 30 days from the expiration of the opposition period or from the pronouncement of the judgment rejecting the opposition (the deadline is also 30 days). After this period or if the payment order is not subject to appeal, it will be given an enforceable formula by the clerk at the creditor's request (by simple letter).

A payment order can only be issued if the debtor has a domicile or residence in Algeria. The notice of the payment order is served on the debtor by registered letter with acknowledgment of receipt. The debtor must comply within 15 days, under penalty of being compelled through all legal means, along with the payment of late interest and fees. The debtor may, within this period, oppose the payment order but must deposit the amount of fees; otherwise, no receipt will be issued by the clerk. If there is no opposition, the debtor is summoned to appear before the judge. If the debtor fails to appear, the judge rules ex officio, and the judgment is considered to be in default. If the opposition is made late, the creditor can, by simple letter addressed to the judge, demand payment of the debt. The effects of the payment order are those of a default judgment. Any order containing a payment order that is not opposed or is not marked for execution within one year from its date is considered expired and can no longer produce any effect.

- **Summary procedure**

When it comes to deciding on a measure of sequestration or any conservatory measure, the case may be brought by citation before the president of the competent first-instance court. The judge can rule at any time, including on holidays. The summary orders do not prejudice the main case. The president of the summary proceedings is authorized to prescribe all necessary investigative measures for the resolution of the dispute. Summary orders are provisionally enforceable, with or without security. They cannot be opposed or defended against execution.

An appeal against the decision can be made within 15 days of the notification of the order. The appeal is also judged under the emergency procedure.

3. Justice professionals

People who contribute to the functioning of the public justice service are divided into three categories: judges, auxiliaries, and civil servants.

- **Judges**

Unlike the dual jurisdiction between the two orders (judicial and administrative), the body of judges is unified under the authority of the Supreme Judicial Council. It is composed solely of professionals forming two groups: judges of the bench and public prosecutors.

The status of the judiciary was restructured in 2004 as part of reforms aimed at strengthening the independence of judges, which resulted, among other things, in the rehabilitation of the role of the Supreme Judicial Council, which enjoys financial autonomy and has seen its elected membership expanded.

- **Auxiliaries**

The activity of judicial auxiliaries is carried out as a liberal profession under the direct authority of a bar association for each branch and under the supervision of the Ministry of Justice. This category includes: lawyers, notaries, bailiffs, auctioneers, judicial experts, judicial administrators, and translators-interpreters.

The Ministry of Justice has initiated a program to restructure all statutes, and mixed commissions have been established to bring texts into compliance with evolving contexts and the opening of the market.

- **Civil servants**

Considered as auxiliaries to the judge, these are divided into two categories:

– **The Court Registry (Greffe):** Composed of civil servants in charge of managing administrative services and financial management of the courts.

– **The Judicial Police (Police judiciaire):** Mainly composed of national security officers, gendarmerie, and other specifically designated persons, whose mission is to record criminal offenses, gather evidence, identify perpetrators, and execute mandates from competent courts in accordance with the law and under the authority of the public prosecutor.

  Following the latest reform of the Criminal Procedure Code, the powers of the judicial police have been significantly strengthened, all under the judicial control of the investigating chamber.

4. Customs disputes (contentieux douanier)

Chapter 15 of the Customs Code deals with customs disputes. It has several particularities stemming from the special nature of customs law, which deviates from common law in certain provisions.

A customs offense, as defined in Article 240 bis of the Customs Code, is any violation of laws and regulations that the customs administration is responsible for enforcing. This offense is punishable by the Customs Code. It only requires two elements, unlike the three typically required in common law: the material element and the legal element. The intentional element is not considered, and even judges cannot invoke it according to Article 281 of the Customs Code.

The fine and customs confiscations, which had a dual civil and criminal reparative character until 1979, became purely civil after 1979. However, they regained their dual nature with the modifications of Law No. 98-10 of July 21, 1998, which repealed Article 249 of the Customs Code, giving prominence to civil action. Penalties under the fiscal action due to the customs administration are collected by the administration itself, and seized goods are stored not in the court registry but at the nearest customs office to the place of seizure.

The procedural rules applicable to customs duties disputes extend to the temporary safeguard additional duty applied to the importation of goods for consumption in Algeria. The rate of this duty is set between 30% and 200%.

No exemption can be granted for the temporary safeguard [116] additional duty, except for:

– Imports governed by special provisions in trade agreements or preferential commercial agreements concluded by Algeria;

– Imports that are granted as donations, exempt from duties and taxes, or those made by foreign diplomatic or consular missions and international organizations accredited in Algeria, as well as their agents, in accordance with the principle of reciprocity;

116 Article 2. Complementary Finance Law for 2018, amended by Article 57 of the Finance Law for 2023.

– Imports of goods by a company established in Algeria, intended for projects in a third country within the framework of international cooperation, solidarity, and development actions, carried out by the Algerian Agency for International Cooperation for Solidarity and Development;
– Imports of goods under border trade exchange.

(See Article 57 of Law No. 22-24 LFC 2023).

4.1. Authorized persons to detect customs offenses and their powers

Under the provisions of Article 241 of the Customs Code, the following are authorized to detect and record customs offenses:

– Customs officers;
– Judicial police officers and agents;
– Tax officers.
– The agents of the national coast guard service, agents responsible for economic investigations, competition, prices, quality, and fraud detection.

The detection of a customs offense entitles these agents to seize goods liable to confiscation as security, up to the amount of the penalties legally incurred, as well as any documents accompanying these goods. In case of a flagrant offense, they may arrest the accused and immediately present them to the public prosecutor after completing the procedural actions.

4.2. Method of detecting customs offenses

Once customs offenses are detected, they are recorded in seizure or detection reports, depending on whether the detection results from checks at customs offices or subsequent control at the violators' premises. According to Article 255 of the Customs Code, customs reports must include the following formalities under penalty of nullity:

– The delivery and deposit at the nearest customs office or post to the place of seizure, of the goods and documents seized, at which the report must be immediately drafted;
– The appointment of the customs receiver in charge of prosecutions as the custodian of the seized goods;
– The report must include details that allow identification of the violators, the goods, and the establishment of the factual basis for the offense;
– The date, time, and place of seizure;
– The cause of the seizure;
– The declaration of seizure to the violator;
– The names, surnames, title, and address of the seizing agents and the customs receiver in charge of the prosecution;
– The description of the seized goods and the nature of the documents seized;
– The summons for the accused to assist in the drafting of the report and the follow-up of this summons;
– The place where the report was drafted and the time of its closure;
– If applicable, the names, surnames, and title of the custodian of the seized goods. Falsified or altered documents are seized, and the report specifies the type of forgery, describing alterations and additions. These documents are signed and initialed by the agents who draw up the report, and attached to the report.

Additionally, reports of detection resulting from investigations or controls in records, under the conditions of Article 48 of the Customs Code, must include:

- The names, surnames, title, and residence of the reporting agents, the date, and locations of the investigations carried out;
- The nature of the findings and the information gathered, either by document control or by inter-viewing individuals;
- The possible seizure of documents with their description;
- The legislative and regulatory provisions violated, as well as the enforcement texts;
- The mention that the persons at whose premises the controls and investigations were carried out were informed of the date and location of the report's drafting, that the report was read to them, and that they were invited to sign it.

4.3. Jurisdiction of courts

- **Jurisdiction *ratione materiae***

Courts dealing with criminal matters are competent to rule on customs offenses and all customs-related issues raised by way of exception, as well as on customs offenses connected to, ancillary to, or linked to a common law offense.

This jurisdiction is granted by Article 272 of the Customs Code. Disputes related to the payment of duties or taxes or their refund, and opposition to administrative penalties fall under the jurisdiction of civil courts.

- **Jurisdiction *ratione loci***

In cases arising from offenses identified by seizure or inspection reports, the competent court is the one located within the jurisdiction of the customs office closest to the location where the violation was observed.

Oppositions to administrative penalties are to be filed before the court in the civil jurisdiction where the customs office that issued the penalty is located (Article 274 of the Customs Code).

4.4. Customs offenses

There are five classes of contraventions and four classes of offenses. These offenses are classified based on whether they concern prohibited or heavily taxed goods and those that do not.

Secondly, consideration was given to those that compromise or evade duties and taxes and those that have no impact on the collection of duties and taxes for the Treasury.

4.4.1. Offenses

- **A Class 1 offense** is any violation of laws and regulations that the customs administration is responsible for enforcing, concerning prohibited or heavily taxed goods, detected at customs offices during inspection operations. This offense is punishable by the confiscation of fraudulent goods and goods used to conceal fraud, a fine equal to the value of the confiscated goods, and a prison sentence of 2 to 6 months (Article 325 of the Customs Code).
- **A Class 2 offense** involves smuggling of prohibited or heavily taxed goods. This offense is punishable by the confiscation of fraudulent goods and goods used to conceal fraud, a fine equal to twice the value of the confiscated goods, and a prison sentence of 6 to 12 months (Article 326 of the Customs Code).
- **A Class 3 offense** is any violation of laws and regulations that the customs administration is responsible for enforcing, concerning prohibited or heavily taxed goods, committed by a group of three or more individuals, whether or not they possess fraud-

ulent goods. This offense is punishable by the confiscation of fraudulent goods and goods used to conceal fraud, a fine equal to three times the value of the confiscated goods, and a prison sentence of 12 to 24 months (Article 327 of the Customs Code).

– **A Class 4 offense** concerns smuggling of prohibited or heavily taxed goods using firearms or animals, vehicles, aircraft, or ships of less than 100 net tons or 500 gross tons. This offense is punishable by the confiscation of fraudulent goods and transportation means, a fine equal to four times the value of the confiscated goods and transportation means, and a prison sentence of 24 to 60 months (Article 328 of the Customs Code).

4.4.2. Customs contraventions

– **A Class 1 contravention** is any violation of laws and regulations that the customs administration is responsible for enforcing, which does not affect prohibition measures or the collection of duties and taxes. This offense is punishable by a fine of 5,000 DA (Article 319 of the Customs Code).

– **A Class 2 contravention** is any violation of laws and regulations that the customs administration is responsible for enforcing, which only affects the collection of duties and taxes. This offense is punishable by a fine equal to double the duties and taxes evaded or compromised (Article 320 of the Customs Code).

– **A Class 3 contravention** is any violation of laws and regulations that the customs administration is responsible for enforcing, concerning prohibited or heavily taxed goods imported or exported by travelers or via postal parcels, as well as violations of Article 22 of the Customs Code. These offenses are punishable by the confiscation of fraudulent goods (Article 321 of the Customs Code).

– **A Class 4 contravention** is any violation of laws and regulations that the customs administration is responsible for enforcing, concerning goods that are neither prohibited nor heavily taxed, committed using false documents. This offense is punishable by the confiscation of fraudulent goods and a fine of 5,000 DA, without prejudice to criminal penalties for forgery and the use of forged documents.

– **A Class 5 contravention** concerns smuggling of goods that are neither prohibited nor heavily taxed. This offense is punishable by the confiscation of fraudulent goods and a fine of 10,000 DA.

4.5. Main offenses likely to be identified during goods verification operations

The fundamental principle in customs is the detailed control of goods declarations by the customs officer, who checks the documents supporting the declarations and performs a physical inspection of the declared goods to verify the accuracy of the information provided in the declaration.

The control primarily focuses on the customs value, the nature, and the origin of the goods. The control of these three elements, known as the taxation elements, allows not only the calculation of the applicable duties and taxes but also the enforcement of prohibition measures that may apply to these goods. This control may lead to the identification and recording of infractions.

Regarding the customs value, it must be declared in accordance with the provisions of Articles 16 and following of the Customs Code. It is the price paid or to be paid to the supplier, corresponding to the calculated invoice price. This value may be disputed by the customs officer, who is responsible for proving, by any satisfactory means, the falsehood of the declared value, in the most objective manner possible. If not, the declarant has the right to maintain the declared value and, if necessary, request the arbitration of

the customs officer's superiors within the framework of an administrative appeal. Both the declarant and the customs administration can also refer the matter to the appeals commission, chaired by a magistrate, which will issue a binding decision for both parties.

Regarding the tariff classification, the rules of the Harmonized System, when the product is not explicitly listed in a position or sub-position, make it much easier to justify a classification. In extreme cases, the declarant also has the option of submitting the matter to the aforementioned appeals commission.

4.6. Prosecutions and enforcement of customs offenses

According to Article 265 of the Customs Code, "persons prosecuted for customs offenses are referred to the competent courts to be sanctioned in accordance with the provisions of this Code."

However, the same article allows offenders, who wish to do so, to request a settlement that will extinguish the prosecution if a transactional agreement is concluded with the customs administration.

During the judicial proceedings, both the customs administration and the offender enjoy the same rights. The trial is adversarial. Judicial decisions are subject to appeals under common law. However, the administration enjoys certain privileges explicitly stated in the Customs Code:

- **Prohibitions for judges**

– Judges are prohibited from excusing the offender on the basis of intent;

– Judges cannot order the release of goods seized for customs offenses without the payment of a security for their value or for prohibited goods being cleared through customs without the prior submission of the necessary authorizations issued by the competent authorities;

– Judges cannot seize any product of duties and taxes in the hands of customs collectors (Article 296 of the Customs Code).

Furthermore, the customs administration does not make any payments under judgments that are appealed (Article 294 of the Customs Code), and administrative constraints issued under Article 262 of the Customs Code are enforceable through any legal means, except through physical force. Their execution is not suspended by the exercise of a taxpayer's right of appeal (Article 293 of the Customs Code).

- **Right to settlement**

The customs administration can settle with persons prosecuted for customs offenses who request it. To request a settlement, the offenders must first acknowledge the offense and admit the legitimacy of the alleged infraction.

The settlement request is made using customs forms, as in the case of contentious submissions where the offender recognizes the infraction. The offender submits a sum fixed by the customs collector. The offender agrees to the decision of the competent authority regarding the final decision, on a special form extracted from a portable booklet for travelers. In other cases, the offender submits a request on plain paper, acknowledging the offense and making a financial offer to resolve the dispute. This request must be addressed to the competent authority depending on the amount of duties and taxes evaded or that the offender attempted to evade, referred to as compromised or evaded duties.

However, settlement is not legally possible in cases involving goods prohibited absolutely. Settlements may occur based on compromised or evaded duties, either with or

without the advice of commissions. They can take place before judgment or after judgment becomes final; the former extinguish both fiscal and public actions, while the latter maintain the penalties involving imprisonment.

Other infractions observed and recorded by the customs administration and not penalized by the Customs Code mainly concern violations of foreign exchange legislation and regulations. Customs officers may, during verification or control operations, identify a customs offense related to a violation of foreign exchange regulations, particularly in cases of false declarations of value and illegal capital transfers or the non-applicability of bank domiciliation certificates. These offenses are prosecuted under the provisions of Ordinance No. 96-22 of July 9, 1996, related to the repression of violations of foreign exchange legislation and regulations, amended and supplemented by Ordinance No. 10-03 of August 26, 2010.

- **Destruction of goods**

Seized, confiscated, or abandoned goods may be destroyed following a decision from the regional customs director, who is territorially competent, or from the president of the competent territorial court, at the request of the relevant customs collector (cf. Art. 2, Executive Decree No. 23-417 of November 28, 2023).

4.7. Organization of the central administration of the general directorate of customs

Executive Decree No. 17-90 of February 20, 2017, governs the organization and responsibilities of the central administration of the General Directorate of Customs. Its purpose is to set out the organization and attributions of the central administration of the General Directorate of Customs.

Under the authority of the Minister of Finance, the General Directorate of Customs is responsible for implementing legal and regulatory measures to ensure the application of customs law and tariff law, as well as those assigned to it under current legislative and regulatory texts. Its responsibilities also include participating in the drafting of legislative texts and initiating regulatory texts related to customs law and the administration of customs. Additionally, it plays a role in protecting the national economy in cooperation with the relevant authorities involved in the implementation of both tariff and non-tariff policies.

The General Directorate of Customs ensures, in compliance with current legislation and regulations, that its mission to protect public health, public morals, and the environment is carried out. It also focuses on combating violations of intellectual property rights and the illicit importation and exportation of cultural goods. Furthermore, it works in cooperation with relevant services to combat:

– Smuggling, money laundering, and cross-border crime;
– The illicit importation and exportation of goods harmful to public security and order.

It participates in the study and drafting of international conventions and agreements related to customs activities and implements the applicable legal and regulatory provisions governing international trade and customs control. Additionally, it is responsible for preparing and analyzing foreign trade statistics (cf. Art. 2, Executive Decree No. 17-90 of February 20, 2017).

The General Directorate consists of two directors of studies, six heads of studies, an internal inspection body governed by specific regulations, and several directorates. These directorates include:

– Directorate of Legislation, Regulation, and Customs Regimes;
– Directorate of Taxation and Tax Bases;

- Directorate of Intelligence and Risk Management;
- Directorate of Customs Investigations;
- Directorate of Litigation and Customs Revenue Oversight;
- Directorate of Security and Operational Activities of Customs Brigades;
- Directorate of Studies and Foresight;
- Directorate of Information and Communication;
- Directorate of Human Resources;
- Directorate of Administrative Resources.

5. Alternative Dispute Resolution (ADR) methods

- **Conciliation**

Conciliation is an alternative method of dispute resolution that aims to resolve conflicts amicably, quickly, and economically. In commercial disputes, it is mandatory before taking legal action if one of the parties requests it, with a three-month deadline to reach an agreement. In administrative matters, it can be initiated at any stage of the procedure, either by the parties or the judge, and results in a final and non-appealable agreement report.

Whether in the commercial or administrative domain, conciliation offers a flexible and collaborative solution, avoiding the costs and delays of a trial while promoting sustainable resolutions.

- **Mediation**

Except in family and labor disputes, or matters that may harm public order, the judge must offer mediation to the parties. If the parties accept this offer, the judge appoints a mediator to hear their views and try to bring them closer in order to help them find a solution. Mediation can address all or part of the dispute.

The mediation process does not remove the judge's authority, who can take any other measures deemed necessary at any time. The duration of mediation cannot exceed three months, extendable once for the same mission upon the mediator's request and with the parties' agreement.

Mediation may be entrusted to either an individual or an association. If an individual mediator is appointed, they must be chosen from those known for their integrity and probity, and must meet the conditions set by Law No. 08-09, as amended, related to the Code of Civil and Administrative Procedure.

The mediator may be dismissed by the judge if the mediation becomes impossible due to the mediator or the parties. At the end of their mission, the mediator must inform the judge in writing whether the parties were able to reach an agreement.

If the parties reach an agreement, the mediator drafts a report detailing the terms of the agreement. This report is signed by the parties and the mediator. The case then returns to the judge at the scheduled date.

The judge formally ratifies the agreement by issuing a non-appealable order. This report constitutes an enforceable title.

CHAPTER 16

Arbitration

Since Algeria adopted an international arbitration law, ratified the ICSID Convention of the World Bank on the settlement of investment disputes, and the Seoul Convention on the Multilateral Investment Guarantee Agency (MIGA)—not to mention the numerous bilateral agreements (over forty)—international arbitration has become the preferred method for resolving disputes between Algerian and foreign companies. Both sides favor institutional arbitration (such as the International Chamber of Commerce or ICSID) and rarely resort to ad hoc arbitration.

Furthermore, Law No. 22-18 of July 24, 2022, on investment, in its Chapter 2 titled "Guarantees Granted to Investments," grants, among other things, the guarantee of recourse to arbitration for foreign investors.

However, paragraph 2 of Article 1006 of the amended and supplemented Code of Civil and Administrative Procedure states that "legal entities of public law cannot enter into arbitration agreements, except in their international economic relations and in matters of public procurement."

Thus, regarding the choice of arbitrators, the seat of arbitration, the law applicable to the procedure, and especially the law governing the substance, the provisions of Law No. 08-09 on the amended and supplemented Code of Civil and Administrative Procedure grant parties the freedom—either directly or through an arbitration regulation—to appoint one or more arbitrators and to establish the terms of their appointment, removal, and replacement. If the contracting parties remain silent, the arbitrator has broad discretion in determining the applicable rules.

At the same time, an arbitral award issued by foreign jurisdictions can only be effective if enforced. The prevailing principle is that enforcement should be voluntary, with the losing party accepting the sanction imposed by the arbitrators. However, a party may, without outright refusing enforcement, seek to exercise legal remedies allowed by law before state courts.

Under Algerian law, the judge is generally required to enforce an arbitral award, whether in response to an appeal filed before them (provided that the award was rendered in Algeria) or in the case of a request for forced execution by the winning party when the award was issued abroad.

Algerian judges assess the validity of arbitral awards concerning the Algerian legal system primarily based on public order requirements, respect for the rights of defense, and the arbitrator's strict adherence to their mandate. In the few arbitral awards brought before Algerian courts in recent years (which indicates, conversely, that most awards are voluntarily enforced), Algerian judges have shown a resolutely favorable stance toward interna-

tional arbitration by recognizing and enforcing foreign and international awards, some of which ruled against Algerian companies.

With the influx of foreign investors, the jurisdiction clause is increasingly considered by legal experts as a "pivotal and decisive clause," meaning that its acceptance conditions the acceptance of all other contract terms.

Indeed, the first clause that foreign companies negotiate with their Algerian partners is the arbitration clause. However, the debate is not so much about opting for arbitration but rather about choosing between institutional arbitration—where the parties adhere to an arbitration regulation—and ad hoc arbitration, which is almost entirely set up by the parties themselves.

Regarding the applicable law, Article 18 of the Algerian Civil Code establishes the principle of party autonomy, stating:

– "Contractual obligations are governed by the law of autonomy, provided it has a real connection with the contracting parties or the contract.
– In the absence of such a choice, the law of the common domicile or nationality shall apply.
– If neither applies, the law of the place where the contract was concluded shall apply.
– However, contracts related to real estate are subject to the law of the property's location."

Moreover, whether the applicable law is Algerian law or foreign law (e.g., the law of the foreign party's country) does not significantly impact the arbitration process. If the Algerian party insists on applying Algerian law, it is mainly because of its familiarity with it and the fact that Algerian law generally governs the place where the contract is executed. Nonetheless, Algerian law remains applicable in cases involving shareholder or partner agreements, as any newly established company will necessarily be subject to Algerian regulations. This also helps avoid any contradiction with the statutes drawn up by an Algerian notary and duly published in the Official Bulletin of Legal Announcements (BOAL).

CHAPTER 17

Financial & banking sector

For a detailed study, refer to the Guide to banks and financial institutions in Algeria

This guide compiles essential information about the banking and financial institutions sector in Algeria, its characteristics, as well as various laws and reforms implemented.

1. Legal framework of banking activities

A new legislative text has been enacted to modernize the banking system: Law No. 23-09 of June 21, 2023, known as the Monetary and Banking Law (hereinafter: "Monetary Law"). This law repeals the provisions of Ordinance No. 03-11 of August 26, 2003, which governed currency and credit. The law focuses on the following key points:

– Governance of the Bank of Algeria (BA)

– New financial initiatives: The legislation introduces major provisions such as the development of Islamic finance, the promotion of green finance, and the potential issuance of a digital currency, called the Algerian Digital Dinar, managed by the Bank of Algeria.

The currency unit of the People's Democratic Republic of Algeria is the Algerian Dinar (DZD), subdivided into one hundred centimes (Cts). The fiduciary currency, composed of banknotes and coins, can also exist in a digital form, known as the Central Bank Digital Currency (Algerian Digital Dinar). The issuance of fiduciary currency is an exclusive privilege of the State, delegated to the Bank of Algeria.

1.1. Bank of Algeria

The Bank of Algeria is a national institution with legal personality and financial autonomy. In its dealings with third parties, it is considered a commercial entity. Its capital is entirely subscribed by the State, and its headquarters is located in Algiers, with the possibility of establishing branches and agencies in designated wilayas and localities.

The Bank of Algeria ensures the proper functioning, efficiency, and security of national payment systems. It supervises these payment systems and ensures the security of payment instruments.

The gold reserves of the Bank of Algeria are state property. The bank is authorized to conduct various gold-related operations, including buying, selling, lending, and pledging, subject to approval by the Monetary and Banking Council and notification to the President of the Republic if the gold is used as collateral for active management of the public external debt.

Additionally, the Bank of Algeria is empowered to conduct foreign exchange operations, manage and invest foreign exchange reserves, borrow in foreign currencies, and subscribe to financial instruments in foreign currencies, in accordance with the decisions of the Monetary and Banking Council.

The Bank of Algeria may adapt monetary market intervention tools to suit the specificities of Islamic finance and green finance operations through specific regulations.

1.2. Monetary and Banking Council

The Monetary and Banking Council consists of:

- Members of the Board of Directors of the Bank of Algeria
- A qualified expert in economic and monetary matters

The Council is vested with authority as a monetary regulator, overseeing areas such as:

- Currency issuance
- Operational norms of the Bank of Algeria
- Monetary policy formulation
- New financial products
- Accounting standards and other regulatory aspects

The Council makes individual decisions, including:

- Authorization for the establishment of banks
- Delegation of powers for foreign exchange regulations
- Approval of payment service providers

The law in forces several prohibitions, notably:

- Only banks and financial institutions can conduct regular banking operations
- Exceptions exist for:
  - The Public Treasury
  - Non-profit organizations
  - Companies offering preferential loans for social purposes
- The Council may grant exemptions for housing organizations that allow deferred payment for properties they promote.

1.3. Authorization & licensing

The creation of banks, financial institutions, independent brokerage intermediaries, exchange offices, and payment service providers under Algerian law requires authorization from the Council. This is based on a complete application, including an investigation into the compliance of executives with legal requirements.

The Council may also authorize the establishment of investment banks and digital banks. The modalities of their operations are defined by regulatory provisions.

A license application must include:

- A business plan
- Financial and technical resources
- Proof of the origin of funds

Once authorized, the company can be established and apply for a license, granted by the Governor and published in the Official Journal of the People's Democratic Republic of Algeria.

Foreign bank branches and financial institutions must fulfill the same conditions to obtain a license.

The law specifies the criteria for establishing financial institutions, including:

- Banks and financial institutions must be established as joint-stock companies (Société par Actions - SPA)
- Payment service providers and independent brokerage intermediaries can choose other legal structures
- The opening of foreign bank representative offices and branches is subject to Council authorization, with an option to appeal before the Administrative Court of Appeal in Algiers

Banks and financial institutions must have fully paid-up capital in cash, as required by Council regulations. Effective management must be ensured by at least two individuals, with restrictions for those with specific criminal convictions.

Foreign bank representative offices in Algeria must adhere to specific rules regarding their name and activities.

Any operation likely to result in significant changes in the control of these entities must be authorized by the Council. Mergers and acquisitions are also subject to a strict approval process.

The Bank of Algeria administers a risk center, collecting essential data on credit beneficiaries and their guarantees. A non-payment registry is also in place to prevent the issuance of bad checks. These mechanisms contribute to the risk management of banks and financial institutions.

1.4. Banking commission

The Law establishes a Banking Commission, a supervisory authority responsible for monitoring entities subject to regulations, reviewing the operational conditions of financial institutions, and sanctioning identified violations.

This Commission sets the schedule for its inspections and determines the process for obtaining necessary documents. It is empowered to request information, clarifications, and justifications from regulated entities, and the confidentiality privilege cannot be invoked against it.

In the course of its investigations, the Commission extends its scope to investments, financial relationships, and subsidiaries of legal entities that directly or indirectly control a regulated entity. The results of on-site inspections can be communicated to the boards of directors, equivalent bodies of Algerian legal entities, as well as to representatives of foreign company branches and auditors in Algeria. If a regulated entity violates a legal or regulatory provision, fails to comply with an injunction, or disregards a warning, the Commission can impose various sanctions.

1.5. Foreign exchange and capital movements

The Bank of Algeria is responsible for organizing the foreign exchange market, in line with the policy set by the Council and Algeria's international commitments.

The exchange rate of the dinar is unified and cannot be varied.

Independent brokerage intermediaries can access the interbank foreign exchange market, subject to the terms set by regulations.

A joint committee between the Bank of Algeria and the Ministry of Finance oversees the implementation of Algeria's external debt strategy and the management of external assets and debt.

Financial transactions with foreign countries must not create monopolies, cartels, or collusion in Algeria. Any practice leading to such situations is prohibited under current legislation

1.6. Provisions of the monetary and banking law

- **Surveillance of payment systems and instruments**

The legislator has entrusted the Bank of Algeria with the task of ensuring the proper functioning, efficiency, and security of the entire national payment system. It is also responsible for ensuring the security of clearing, settlement, and delivery systems for financial instruments.

- **Adoption of digital banks**

As the monetary authority, the Council is in charge of standardizing the rules for banks and financial institutions, as well as the regulations governing digital banks and payment service providers (PSPs).

2025 ↗

Specific conditions applicable to this new type of bank are set by the Bank of Algeria, in accordance with Regulation No. 24-04 of October 13, 2024, which defines the conditions for the authorization, licensing, and operation of digital banks.

- **Adoption of international accounting standards**

The Council is responsible for standardizing accounting rules for banks and financial institutions, taking into account international developments in the field. It also determines the procedures and deadlines for the submission of financial statements, accounting records, and statistics to all relevant parties, particularly the Bank of Algeria.

- **Strengthening banking supervision**

Another important point concerns the supervision of banks. The control system grants exclusive competence to the Banking Commission, which is responsible for organizing the supervision of banks and financial institutions.

- **Minimum capital requirements**

The law stipulates that: "Banks and financial institutions must have fully paid-up capital, in cash, at least equal to the amount set by regulation issued by the Council…"

2025 ↗

The minimum capital required for the establishment of banks and financial institutions operating in Algeria is defined by Regulation No. 24-02 of February 6, 2024, concerning minimum capital for banks and financial institutions. The regulation sets the following capital minimums:

– Bank: 20 billion Algerian dinars (20,000,000,000 DA);
– Investment bank: 20 billion Algerian dinars (20,000,000,000 DA);
– Digital bank: 10 billion Algerian dinars (10,000,000,000 DA);
– Financial institution: 6.5 billion Algerian dinars (6,500,000,000 DA).

- **Status of financial institutions**

The status of financial institutions has been clarified to remove any ambiguity about the nature of their activities and the operations they are allowed to perform. The Law specifies that financial institutions cannot receive funds from the public or manage payment instruments (Article 78). This means they cannot offer cash services to customers, such as opening current accounts or issuing check books. Their activities must be restricted to credit operations in all forms (such as classic credit, leasing, factoring, venture capital, etc.), as well as related operations.

As an exception, banks and financial institutions can raise funds from the public to be invested in equity participation with a company, through legal means such as shares, investment certificates, company shares, partnerships, or other legal forms.

- **Regime of equity investments**

Banks and financial institutions' equity investments in newly created or forming companies, previously limited to 50% of their equity capital, are now no longer subject to such restrictions. The law confirms the removal of this limitation and assigns the responsibility to the Council to set limits solely for banks (Article 81). This means that financial institutions are no longer subject to these caps.

These institutions can now allocate their resources to lending and making equity investments without limits in existing or emerging businesses, i.e., in equity interventions in companies. This is the primary purpose of this legal category, the financial institution, which now finds its economic justification and is thus rehabilitated to engage in venture capital, private equity, growth capital, investment fund management, in addition to specific lending activities such as leasing, factoring, guarantees, and surety-ships, among others.

- **Excluded entities from banking legislation**

The law excludes certain entities from the scope of banking legislation. These include the public treasury and non-profit organizations (Article 85). It provides a system of exceptions only for housing institutions. This means that any banking operation must be authorized by the monetary authority, under penalty of criminal sanctions.

- **Group cash operations**

The banking legislation reaffirms the provision allowing companies within the same group to carry out cash operations (loans) among themselves. The criterion for tolerating such operations, which normally fall under the monopoly of banks and financial institutions, is justified by the concept of control. Thus, what is called "inside banking," a method that opens up many opportunities in terms of organization and management, provided that companies within the same group know how to exploit it well, could provide a solution to their cash flow problems.

The law has not challenged the ability to carry out such operations, but they must be considered in light of the regulations regarding foreign investments [117].

- **Regulated agreements and normal operations**

This authorization granted to companies within the same group to carry out intra-group loan operations is ineffective when it comes to banks and financial institutions. This was confirmed by Article 104 of Ordinance No. 03-11 (repealed), which established the absolute prohibition, without exceptions, for banks and financial institutions to grant credit to their executives, shareholders, and companies within the group. Spouses and first-degree relatives of executives and shareholders are also considered as such.

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117 See Chapter 4: Regulation of foreign investment, Page 65. ↗

- **Deposit guarantee**

The law maintains the requirement for licensed banks to contribute to the financing of a deposit guarantee fund in local currency, established by the Bank of Algeria. Each banking institution is now required to pay an annual premium to the guarantee fund, capped at 1% of the total amount of its deposits.

- **Right to a bank account**

The law also maintains the principle that any person who has been refused the opening of a deposit account by local banks, and thus finds themselves without an account, has the right to request the Bank of Algeria to designate a bank where they can open such an account, regardless of any restrictions on issuing checks or accessing banking services. This account may be limited to cash operations only.

- **Strengthening cooperation with foreign monetary authorities**

This aspect is addressed by the law, which enables the organization of cooperation relations, particularly in the exchange of information with foreign monetary authorities.

1.7. Principles of the Algerian banking system established by the monetary and banking Law

Residents in Algeria are defined as those whose primary economic activities are based in the country. Non-residents, on the other hand, have their primary economic activities outside of Algeria. Residents are allowed to transfer capital abroad to finance activities complementary to their operations in Algeria, subject to the conditions set by the Council, which grants the corresponding authorizations.

- **Privileges granted to banks and financial institutions**

The law grants banks and financial institutions privileges regarding the guarantee and recovery of debts, which benefit from a derogatory regime compared to common law.

Just like the former ordinance, the law recognizes banks and financial institutions as businesses, with obligations of profitability and performance. Prudential standards require banks to measure the risks they take in their activities, both quantitatively (ratios) and qualitatively (internal control). Internal control is made mandatory by Regulation No. 2002-02.

The law has also instituted consultation and cooperation between the central bank and the authorities responsible for the economy.

- **Broad delegation of powers to monetary authorities**

The legislator's choice to grant broad powers to banking authorities stems from the desire to facilitate the implementation of practical measures, in line with the management needs of banks and financial institutions. This is why it was deemed more prudent to delegate to the monetary authority the powers to regulate, by means of simple measures, areas that concern the banking profession, thus enabling the gradual modernization observed within the banking system in recent years.

The regulations issued since 1990 by the Council of Money and Credit in various areas such as accounting, prudential rules, foreign exchange control, banking conditions, bank branch establishment conditions, guarantees, payment methods, etc., all reflect this new vision.

- **Separation between regulatory authority and supervisory authority**

The legislator reaffirmed the separation between the authority that regulates and the authority that supervises. They were granted autonomy and independence, protecting them from any interference.

However, it should be noted that the legislator grants the Banking Commission regulatory power limited to operational methods (frameworks, explanations) of the prudential provisions established by the Council, which require technical details due to their complexity in implementation by banks and financial institutions.

2. Characteristics of the Algerian banking sector

In terms of characteristics, there is one main one: the sector is a developing sector.

This development is measured by the total number of banks and financial institutions and the number of full-service bank branches in Algeria.

At the time the monetary and credit law came into effect in 1990, the banking sector was primarily made up of five public commercial banks, the National Savings and Provident Fund (CNEP), and the Algerian Development Bank (BAD), with a network of agencies across the country.

To this public banking sector, the mixed bank Al Baraka, formed between the Saudi group Dellah Al Baraka and the Algerian Bank for Agriculture and Rural Development (BADR), was added in 1991.

From 1995 onwards, the banking sector saw the creation of numerous financial institutions aimed at supporting banking activity, responding to sectoral needs.

Indeed, support for housing financing led to:

– The transformation of CNEP into CNEP Bank.
– The creation of the National Housing Fund (CNL).
– The creation of the Mortgage Refinancing Company (SRH).
– The establishment of the Credit Guarantee Fund (CGCI).
– The Property Promotion Guarantee Fund (FGPI).

Similarly, support for the equipment sector (basic infrastructure) led to:

– The restructuring of BAD (now known as the National Investment Fund).
– The creation of the Public Procurement Guarantee Fund (CGMP) in 1998.
– The creation of the National Equipment and Development Fund (CNED) in 2005.

In addition to these public financial institutions, since 1995, there has been significant growth in the number of private banks and financial institutions, some with the support of non-resident (foreign) capital.

It is also worth noting that in April 1990, the law on money and credit allowed the establishment of banks and financial institutions with private national and international capital, either independently or in partnership.

The economic opening policy, promoted and enshrined by a set of legislative texts, including the law on money and credit, led many renowned international banks to consider establishing a presence in Algeria in one form or another (partnership or branch).

In the first phase, to allow these institutions to better monitor developments in the Algerian economy, representative offices were opened in 1991 under the direction of managers dispatched by the parent companies: notably Citibank, Crédit Lyonnais (now Calyon), BNP Paribas, and Société Générale.

However, political tensions during the following decade led these institutions to temporarily freeze their banking projects. A strong resurgence of interest from foreign banks was observed at the beginning of 1997.

Union Bank was authorized in 1995 as a financial institution.

List of approved banks [118]

- Al Salam Bank-Algeria (ASBA)
- Arab Bank PLC-Algeria, bank branch
- Arab Banking Corporation-Algeria (ABC)
- Banque Al baraka d'Algérie
- Banque de développement local (BDL)
- Banque de l'agriculture et du développement rural (BADR)
- Banque extérieure d'Algérie (BEA)
- Banque nationale d'Algérie (BNA)
- Banque nationale de l'habitat
- BNP Paribas Al-Djazair
- Caisse nationale d'épargne et de prévoyance (CNEP banque)
- Citibank N.A Algeria, bank branch
- Crédit populaire d'Algérie (CPA)
- Fransabank Al-Djazair
- Gulf Bank Algérie
- H.S.B.C Algeria (bank branch)
- Natixis Algérie
- Société Générale Algérie
- The Housing Bank for Trade and Finance-Algeria (HBTF Algeria)
- Trust Bank Algeria

List of approved financial institutions with general purpose

- Arab Leasing Corporation (ALC Leasing company)
- Caisse nationale de mutualité agricole (CNMA)
- El Djazair IJAR (EDI) - SPA.
- Ijar Leasing Algérie (ILA) - SPA
- Maghreb Leasing Algérie (MLA)
- Société de refinancement hypothécaire (SRH)
- Société financière d'investissement, de participation et de placement - SPA (Sofinance SPA)
- Société nationale de Leasing (SNL) SPA

List of approved specialized financial institutions in 2024

- Fonds National d'Investissement

List of approved representative offices in 2024

- British Arab Commercial Bank (BACB)
- Union des banques arabes et françaises (UBAF)
- Crédit industriel et commercial (CIC)
- Banco Sabadel
- Monte Dei Paschi Di Siena
- CAIXABANK "Spain"

2.1. Diversification of the banking system

From a functional perspective, Algeria has both universal institutions, such as major network banks (all public banks and some private ones like BNP Paribas and Société Générale Algeria), and institutions specializing in specific products and clientele (leasing institutions, the mortgage refinancing company, etc.).

118 Decision No. 24-01 of January 2, 2024, regarding the publication of the list of banks and the list of licensed financial institutions in Algeria.

From an economic perspective, the Algerian banking system includes both large institutions and medium-sized or even very small ones. It also includes institutions whose activities are strictly limited to banking operations, and those offering a broad range of financial services.

The shareholding is often structured around a core shareholder considered the reference shareholder.

In terms of organizing the profession, banking legislation requires all institutions to join the professional body created under the Central Bank's authority, namely the Association of Banks and Financial Institutions (ABEF).

2.2. Modernization of the Algerian banking system

Long an announced goal of banking reform, modernization began to materialize in 2005 with the launch of the international EMV standard interbank withdrawal card, which was later generalized across the banking system and Algeria Poste.

In 2006, the real-time high-value payment system, managed by the Central Bank, began in February, followed by the introduction of the electronic payment system for mass payments (cheques, transfers, direct debits, promissory notes, and electronic transactions) starting in May.

To implement these modernization actions that began in 2002, all banks upgraded their information and management systems. The Law has opened major doors for Islamic finance and digital financial services.

3. Conditions for the establishment and installation of banks and financial institutions

The establishment of banks, financial institutions, and branches of foreign banks in Algeria is governed by the Monetary and Banking Law, as well as regulations issued by the Council. Generally, the installation regime for banks remains flexible and transparent. The prudential regulations are inspired by Basel Committee recommendations, aligning Algerian banking practices with international standards regarding equity, provisioning rules, prudential ratios, and reporting.

The specificity of banking activities related to morality and systemic risk justifies the conditions required of the founders and directors of banks, which are in line with Basel Committee's recommendations (Basel 1).

Moreover, banking activities in Algeria are not subject to any restrictions under the General Agreement on Trade in Services (GATS).

The installation of financial institutions in Algeria is subject to two major universally accepted conditions:

– The minimum capital required for these institutions.
– The integrity, good character, and professional experience of the founders and the leadership of these institutions, including their capacity to meet their objectives.

According to Ordinance No. 10-04 of August 26, 2010, amending and supplementing Ordinance No. 03-11 of August 26, 2003, on monetary and credit matters, foreign participation in banks can only be authorized in the context of a partnership where the resident national

shareholder represents at least 51% of the capital. "National shareholder" refers to the sum of multiple partners.

These two laws are repealed by the new Monetary Law, and the 51-49% rule no longer applies to the banking sector, mainly due to the current preference of foreign investors for branches, in line with the principle of reciprocity.

The State will hold a specific stake in the capital of privately owned banks and financial institutions, in which it is represented without voting rights in the corporate bodies. Any transfer of shares or similar titles in a bank or financial institution requires prior approval from the Council. Transfers made abroad are null and void. Changes to the statutes of banks or financial institutions that do not affect the purpose, capital, or shareholding must be pre-approved by the Governor.

Banks and financial institutions must be established as joint-stock companies (SPA) or branches. The minimum capital for banks and financial institutions operating in Algeria is set by Regulation No. 24-02 of February 6, 2024, as follows:

- Bank: twenty billion Algerian dinars (20,000,000,000 DA)
- Investment bank: twenty billion Algerian dinars (20,000,000,000 DA)
- Digital bank: ten billion Algerian dinars (10,000,000,000 DA)
- Financial institution: six billion five hundred million Algerian dinars (6,500,000,000 DA).

Foreign banks are required to allocate a fund to their Algerian branches equal to the minimum capital required for Algerian banks in the same category (Article 96).

The capital must be fully paid in cash upon subscription.

A bank or financial institution's entry into activity depends on obtaining:
1. In the first step, a constitution authorization issued by the Council.
2. In the second step, an approval granted by the Governor of the Central Bank of Algeria.

The installation of branches of foreign banks and financial institutions follows the same procedure as for Algerian institutions.

The application for authorization must include a file with the following components:

- The quality and integrity of the shareholders and their possible guarantors.
- The list of key executives.
- The planned financial and technical resources.
- Internal organization.
- The five-year activity plan (business plan).

A 1992 regulation defines the conditions that founders, executives, and representatives of banks and financial institutions must meet, including:

- Complying with the legal requirements set out in the Monetary and Banking Law and the current Commercial Code.
- Declaring their ability to fulfil their roles so that the institution and its clients, notably depositors, are not at risk and their interests are protected.

The decision regarding the authorization request must be notified to the applicant within two months after submission of a complete file. After a second refusal, an appeal can be made to the State Council.

The bank or financial institution, as well as the foreign bank or financial institution branch that has received authorization, must seek approval from the Governor of the Central Bank of Algeria within a maximum of 12 months. Before receiving approval, they are prohibited from performing any banking operations. Approval is granted by decision of the Governor of the Central Bank of Algeria if the applicant meets all constitution or installation conditions.

4. Financial market

An Algerian securities market was established by a legislative decree in 1993, amended and supplemented by Law No. 03-04 of February 17, 2003, as well as Law No. 17-11 of December 27, 2017, which pertains to the finance law for 2018.

The Algiers Stock Exchange, whose operational entity is the securities management company (SGBV), was launched in 1999. The regulatory authority is the Commission for the Organization and Surveillance of Stock Exchange Operations (COSOB), which has been operational since 1996. The modernization and dematerialization of securities led the market authority to promote the creation of a central securities depository managed by a joint-stock company (SPA) named "Algeria Clearing," which was established in 2002 and became operational in 2004, with its shareholders being banks.

In addition to the legislative provisions contained in the stock market law, COSOB has issued substantial regulations to regulate the stock market in all its components (public offering, status of stock market intermediaries, status of collective investment schemes – SICAV and FCP – status of issuers, mandatory and periodic financial reporting, central depository, securities custody accounts, etc.).

The capital market in Algeria is divided into two main segments:

- **The main market:** This segment is intended for large companies that meet strict regulatory criteria to be listed on the stock exchange.
- **The secondary market:** It is designed for small and medium-sized enterprises (SMEs) seeking access to financing sources while benefiting from listing conditions adapted to their size and structure.

As of 2024, with the listing of Crédit Populaire d'Algérie (CPA) bank, the main market now includes five listed companies, as follows:

- Groupe Saidal: Active in the pharmaceutical sector;
- EGH El Aurassi: Operating in the tourism sector;
- Alliance Assurances: Operating in the insurance sector;
- Biopharm: Specializing in the pharmaceutical sector;
- Crédit Populaire d'Algérie (CPA): A player in the banking sector.

On the other hand, the secondary market, primarily aimed at SMEs and companies with smaller volumes of activity, currently includes two listed companies:

- AOM Invest Spa: Active in the thermal tourism sector.
- Moustachir SPA: Mainly active in the consulting sector.

The stock market is open to both residents and non-residents. For foreign investors, the Bank of Algeria issued regulation No. 2000-04 on capital movements for portfolio investments by non-residents, which allows them to freely purchase listed securities.

Article 4 of this regulation guarantees the transfer of income (dividends and interest) generated by portfolio investments of non-residents.

Following these measures, incentivizing provisions have been introduced by the finance laws to develop the market and stock exchange operations. Thus, in addition to being exempt from income tax (IRG) or corporate tax (IBS), the products and capital gains from the sale of shares and similar securities resulting from a stock market listing operation are also exempt from registration fees.

5. Fight against money laundering

Since 2005, Algeria has committed to the fight against money laundering with the promulgation of Law No. 05-01, amended and supplemented [119], relating to the fight against money laundering and the financing of terrorism, which is largely inspired by the recommendations of the GAFI.

The law established a suspicion declaration to be made in the case of a suspicious transaction that seems intended to launder money or finance networks or terrorist activities.

This declaration concerns all banks, financial institutions, insurance companies, exchange offices, lotteries, lawyers, notaries, auditors, accountants, auctioneers, real estate operators, and any person whose profession involves providing advice leading to a capital movement.

The suspicion declaration must be sent to the Financial Intelligence Processing Unit (CTRF), which is an independent body created in 2002, and whose members are directly appointed by the President of the Republic. Severe criminal and administrative sanctions are provided for in case of violation of this legislation.

The recent Law No. 23-01 of February 7, 2023, which introduces substantial amendments to Law No. 05-01 of February 6, 2005, marks a significant advance in Algeria's fight against money laundering and the financing of terrorism. This reform significantly strengthens the regulatory framework, introducing bold measures to prevent and punish these illicit activities.

Here are the key points of this major reform:

- **Independence of the offense:** The offense of money laundering is now independent of the principal offense, allowing separate prosecutions.
- **Central role of the National Committee:** The National Committee plays a central role in taking strategic measures to identify, assess, and mitigate risks while maintaining a constantly updated evaluation.
- **Proportional measures for obligated entities:** Entities subject to the law must adopt proportional measures to assess and mitigate risks, with regular documentation and making assessments available to competent authorities.
- **Increased monitoring of associations:** Associations and non-profit organizations are subject to increased monitoring to prevent the illicit use of their funds, with strict rules for prudent management.
- **Detailed regulations by authorities:** Regulatory authorities issue detailed regulations covering due diligence, identification of beneficial owners, risk management, and imposing annual control programs based on a risk-based approach.
- **Strengthened client identification requirements:** Client identification requirements are strengthened in various situations, including the creation of a public registry of beneficial owners of Algerian legal entities.
- **Internal control programs:** Obliged entities must develop and implement internal control programs adapted to the risks, nature of the activity, and continuous staff training.

119 Ordinance No. 12-02 of February 13, 2012, amending and supplementing Law No. 05-01 of February 6, 2005, related to the prevention and fight against money laundering and the financing of terrorism.

– **Severe sanctions:** Severe sanctions, such as warnings, reprimands, operation bans, temporary suspensions, cessation of functions, or withdrawal of licenses, can be imposed in cases of non-compliance.
– **Responsibility of inspectors:** Inspectors from the Bank of Algeria are responsible for reporting any suspicious transactions detected during their control missions.

- **Creation of the operational committee for coordinating policies and actions in the fight against money laundering and terrorism financing**

In accordance with the provisions of Article 15 bis 1 of Law No. 05-01 of February 6, 2005, amended and supplemented, concerning the prevention and fight against money laundering and terrorism financing, Executive Decree No. 23-50 of January 3, 2023, establishes the Coordination Committee, whose mission is to contribute to the implementation of the national strategy to combat money laundering, terrorism financing, and the financing of weapons of mass destruction proliferation, validated by public authorities. The committee's missions include:

– Contributing to the implementation of the national strategy, approved by the competent authorities.
– Coordinating and exchanging operational information among competent authorities to improve their efficiency in the fight against money laundering, terrorism financing, and the financing of weapons of mass destruction proliferation.
– Requesting relevant information from the competent authorities, whether or not they are represented in the coordination committee.
– Facilitating the exchange of data and statistics related to the fight against money laundering and terrorism financing.
– Taking measures to enhance collaboration among the various actors involved in the fight against money.

All information exchange within the committee must comply with personal data protection obligations.

- **Disclosure of the new procedure for freezing and/or seizing funds and assets in the context of the prevention and fight against terrorism financing and weapons of mass destruction proliferation financing**

Executive Decree No. 23-428 of November 29, 2023, introduces crucial provisions aimed at strengthening the procedure for freezing and/or seizing funds and assets in the context of the prevention and fight against terrorism financing and weapons of mass destruction proliferation financing.

Under these new measures, the Financial Intelligence Processing Unit must quickly publish the sanctions summary list on its official website as soon as it is available on the UN Security Council's Sanctions Committee website. Obliged entities must freeze and/or seize the funds and assets of individuals, groups, and entities listed, even during holidays.

It is also required for obliged entities to continuously check the sanctions summary list published on the official website of the Financial Intelligence Processing Unit and on the websites of the Sanctions Committee and UN Security Council. The publication of the list on these platforms serves as notification to obliged entities of the freezing and/or seizure order.

Strict procedures have been established for the ongoing verification of clients, with an obligation to immediately report any positive or negative results to the Financial Intelligence Processing Unit. Partial use of frozen funds for essential needs is allowed, subject to approval by the Minister of Finance, with notification to the sanctions committee.

It is explicitly prohibited to maintain any business relationship with individuals listed, and specific mechanisms are in place to handle international requests for freezing and/or seizing funds and assets.

The decree also establishes strict prohibitions on providing financial assistance to individuals and entities on the list, except for explicit authorization to cover essential needs, under penalty of sanctions in accordance with current legislation.

This system details authorizations concerning the interest and benefits of frozen accounts, the information to be submitted to the Financial Intelligence Processing Unit, the procedures for delisting from the sanctions summary list, and the possibility of requesting the lifting of the freeze in case of name similarity.

Finally, the decree repeals the provisions of Executive Decree No. 15-113 of May 12, 2015, as amended and supplemented, thus consolidating these new measures in the context of the prevention and fight against terrorism financing.

- **Implementation of a register of beneficial owners (RBE)**

— Relevant stakeholders

Entities required to maintain the register include all legal persons under Algerian law, including civil and commercial companies and any recognized legal grouping of individuals. It should be noted that legal entities in which the state holds the majority of the capital are not subject to this obligation, nor are public legal entities.

— Definition of the beneficial owner

A beneficial owner is defined as the individual(s) who ultimately hold or control the legal entity. The criteria include direct or indirect ownership of at least 20% of the capital or voting rights, control by other means, or the person holding the legal representative status.

— Obligations to comply with

Algerian companies must comply with the new rules by filing a declaration with the National Center for the Commercial Register (CNRC), detailing information about the beneficial owners. This declaration must be made within one month of the entity's creation or registration and whenever there are changes in the information.

— Central register and controlled consultations

The CNRC is responsible for creating and managing a public central register of beneficial owners. Competent authorities, such as judicial authorities and the financial intelligence unit, can consult this register for legitimate purposes. However, public consultation is subject to strict conditions to be defined by a ministerial order from the Minister of Commerce.

— Deterrent sanctions

Failure to comply with these obligations exposes companies and their legal representatives to financial sanctions. Fines, as defined by the applicable legislation, range from 300,000 DA to 750,000 DA for individuals and from 750,000 DA to 3,750,000 DA for legal entities.

6. Prudential regulation

Algerian prudential regulations comply with the Basel I recommendations. The transition to Basel II is not yet on the agenda as it would require significant upgrades to the banks' information systems to assess their operational risk.

Prudential obligations include maintaining a minimum level of net equity in relation to the weighted risk, according to the guidelines from the Bank of Algeria. These also include obligations regarding risk division and foreign exchange positions.

Banks and financial institutions are also required to comply with certain management rules such as the permanent resources ratio and the prohibition on financing directors, shareholders, or any company in which a director or shareholder has interests.

Starting from August 1, 2015 [120], the level of external commitments signed by banks and financial institutions must not exceed their regulatory equity at any time, as defined by the applicable prudential regulations.

7. Banking services

The Bank of Algeria prescribes measures to facilitate the offering of banking services to promote financial inclusion, particularly through the orderly establishment of bank and financial institution branches across the national territory.

All local banks, both public and private, offer the banking products that economic actors may use to develop their activities. The main difference between them lies in the quality of service. Whether opting for private or public banks, operators now have the choice of their financial partner.

It is important to distinguish between the approach of banks and the services that can be requested.

7.1. Bank approach

All banks are now structured according to international models.

Branches have specialized departments capable of meeting the needs of entrepreneurs. Depending on the size of the branch, the contact person may be the branch manager, a department head, or an account manager dedicated to businesses. For particularly large or technical projects, contact with senior management will be necessary.

In most cases, decision-making powers are limited, and files (such as account openings, financing requests, etc.) must be approved by higher authorities. These may be at the branch level for larger ones, regional delegations, local headquarters, or even headquarters abroad. Normally, with the generalization of electronic communications, decisions are made quickly.

Complete files are required, similar to those used in international banks: articles of association, powers of attorney, balance sheets, financing plans, project descriptions, etc. Branches even have detailed lists of documents to provide according to the requested service. Specialized financial companies (leasing, long-term rental, equipment financing)

120 Instruction No. 02-15 of July 22, 2015 setting the level of foreign commitments for banks and financial institutions.

are often subsidiaries of local banks. However, they offer these specific financing services independently of the borrower's banking domicile.

Again, these files are classic. While this may facilitate contact, it is not essential to use the local subsidiary (if it exists) of the bank with which one is a client abroad. It is better to prioritize the professionalism of local contacts, the quality of service, and the size of the domestic and international network (which is crucial for transfers or international trade operations). As everywhere, banking services are charged, and fees are made available to customers.

7.2. Banking products and services

Regulation No. 20-01 of March 15, 2020, setting the general rules for banking conditions applicable to banking operations, states in Article 14 that banks are required to provide the following basic banking services free of charge:

- Opening and closing of accounts in dinars
- Issuance of check books
- Issuance of a savings book
- Issuance of domestic bank cards
- Deposits with the domiciled bank
- Preparation and delivery or sending, where applicable, of an annual account statement to the client
- Online account consultation
- Issuance of money transfers, between individuals, within the same bank.

The fees for commissions charged by banks for foreign trade operations (imports) and income transfers will be set by instruction (Article 15).

With the exception of the free banking services provided for in Article 14 above and the commissions mentioned in Article 15 of this regulation, the rates and levels of other commissions are freely set by banks and financial institutions. These institutions are required to strictly adhere to the banking conditions they have established.

a) Entering into a relationship

This begins with opening an account. All types are offered:

- **Current account:** in dinars. Checking account for legal or professional persons. Overdraft allowed with authorization.
- **Checking account:** in dinars. Checking account for individuals. Credit balance only.
- **Foreign currency account:** in foreign currency. Deposit account, earning interest. No check book issuance. Credit balance only.
- **CEDAC account:** in dinars. Deposit account for individuals or legal entities that are foreign residents.
- **INR account:** in dinars. Deposit account for non-resident foreign individuals or entities holding a public contract.
- **Joint account:** in the name of several individuals. Accompanied by a solidarity agreement.

b) Placements

- **Treasury bonds:** duration varies depending on the bank (usually 3 to 48 months). Bearer or registered. Negotiable. Can serve as collateral.
- **Term deposits (DAT):** There are 3 types:

  - **DAT in dinars:** deposits starting at 10,000 DA, usually. Denominated in dinars. Paid at the conditions prevailing at the time of subscription.
  - **DAT in foreign currency:** reserved for holders of foreign currency checking accounts. Denominated in the currency of their account. Duration starts at 1 month. Paid according to the rates set by the Bank of Algeria at the time of deposit.
  - **DAT CEDAC:** reserved for CEDAC account holders. Duration of 2 to 6 months. Conditions set by the Bank of Algeria.
- **Savings book:** denominated in dinars. Open to any individual, whether adult or minor. Earning interest.

c) Bank credits

Three types of credit are offered:

- **Operating credits:** fund the current activity of the company. Tailored to needs: overdraft, cash facility, campaign credit, commercial paper discount.
- **Signature credits:** indirect operating credits: guarantees, endorsements, customs-secured obligations, documentary credits.
- **Investment credits:** fund the acquisition of equipment. Medium- or long-term duration depending on the project specifics.

d) Foreign trade operations

To facilitate foreign trade procedures, the Finance Law for 2014 introduced a provision concerning the introduction of payment by documentary collection in addition to the already existing documentary credit, specifically for imports intended for resale in the same condition.

Indeed, payment by documentary collection is allowed for imports destined for resale as is.

Nature: Technically, all banks handle these operations: documentary credits, documentary collections, bank guarantees.

Conditions: In order to handle these operations, the bank must meet two conditions:

- The bank itself must have received a global authorization issued by the Bank of Algeria,
- Each branch must also be individually authorized by the Bank of Algeria to process these operations.

If you need to carry out such operations, ensure that your branch has a specific authorization as an approved intermediary counter.

e) Other services

— Basic services

- Issuance of check books.
- Account statements.
- Bank checks.
- Teller checks.
- Transfers.
- Collection of checks and bills nationally and internationally.
- Manual exchange.

— Cash management services

Some banks offer remote banking, which allows, via the internet:

- Permanent access to detailed bank account statements and the ability to download them.
- Performing transfer operations, currently limited to accounts within the same institution, as inter banking is not yet operational.
- Accessing remote services: ordering check books, generating RIB, etc.

— Payment cards

Several banks now offer domestic payment cards. However, their use is limited due to the lack of participating merchants. Furthermore, cash withdrawals are possible at ATMs, though these machines are not widespread across the country. Visa cards are distributed, but their usage remains limited for the same reasons.

— Available funds

Money can be transferred from abroad either to a bank or through Western Union, but the latter service is reserved for individuals only.

f) Specialized financing

- **Leasing:** Leasing companies provide financing for new equipment under traditional leasing methods.
- **Long-term rental:** Allows for the financing and management of a vehicle fleet for businesses.
- **Vehicle financing:** Operation based on standard criteria in the matter.
- **For businesses:** Financing subject to a case study.

7.3. Islamic finance

Although the origin of Islamic finance is religious, its development primarily aims to circumvent the prohibition of interest-bearing loans to meet the needs of a modern economy.

7.3.1. Regulatory framework of Islamic finance in Algeria

Regulation No. 20-02 of March 15, 2020, defines banking operations under Islamic finance and the conditions for their implementation by banks and financial institutions.

Instruction No. 03-2020 from the Bank of Algeria, dated April 20, 2020, defines products under Islamic finance and sets out the modalities and technical characteristics of their implementation by banks and financial institutions.

Article 103 of the 2020 Finance Law discusses the "Takaful" insurance product.

7.3.2. Main principles of Islamic finance, as opposed to so-called "conventional" finance

Islamic finance is based on Islamic law, or "Sharia," and encompasses the legal and financial techniques for financing assets and operations that adhere to the following principles:

- **Prohibition of interest ("Riba"):** In conventional finance, this corresponds to interest rates and usury. Compensation is possible through the actual income generated by the asset financed by the lender.
- **Prohibition of uncertainty ("Gharar") and speculation ("Maysir"):** Contracts must be free from uncertainty or speculation, excluding futures operations, as there must always be a connection to the real economy. All operations must be backed by tangible assets.
- **Prohibition of financing prohibited activities.**
- **Profit and loss sharing** between the bank and the borrower.

These principles necessitate the adaptation of financial operations to ensure compliance with both the principles of Islamic law and the broader Algerian banking law.

7.3.3. Different financing methods and legal techniques (main products)

To carry out Islamic financial operations, various techniques exist, each corresponding to a specific type of investment. According to Regulation No. 20-02, any banking operation that does not involve the receipt or payment of interest is considered to fall under Islamic finance. Article 4 of the afore mentioned regulation, and the instruction, lists the following products:

a) Borrowing instruments

- **Murabaha:** A contract where the bank or financial institution sells a specific asset, movable or immovable, which it owns, to a customer at the cost of its acquisition, plus an agreed-upon profit margin, with payment terms set between the parties.
- **Ijara (Leasing contract):** A contract where the bank or financial institution, as the lessor, provides a movable or immovable asset to a customer for a specified period in return for a fixed rent.
- **Salam:** A contract where the bank or financial institution purchases goods (e.g., agricultural products, manufactured goods) from a customer, to be delivered at a future date, in exchange for an immediate cash payment. The operation may also include a second Salam contract, known as a parallel Salam, between the bank and a third party, distinct from the initial contract. Under this arrangement, the bank sells a good with the same specifications as the one in the original contract, to be delivered at a later date and at an agreed-upon price, paid in full and upfront. It should be noted that delivery terms must be clearly defined; however, penalty clauses for delivery delays are prohibited. Guarantees may be required.
- **Istisna'a:** A contract where the bank or financial institution commits to deliver goods to the customer, or purchase from a manufacturer, goods to be produced according to predefined specifications and delivered at an agreed price. The operation may also involve two independent contracts, referred to as parallel Istisna'a agreements—one between the financier and the manufacturer, and the other between the financier and the client. In this case, the financier may not enter into a contract with a manufacturing company in which the ordering party holds 33% or more of the share capital.

b) Participatory instruments

(Equity participation in an entity).

- **Musharaka:** A contract where the bank or financial institution and one or more parties participate in the capital of a company or a project for the purpose of generating profits.
- **Mudaraba:** A contract where the bank or financial institution (the capital provider) supplies the necessary capital to an entrepreneur who provides the labor, for the purpose of generating profits. In other words, this is an investment technique based on a partnership agreement between an investor (Rab-el-Maal), who provides the capital, and an entrepreneur (Al-Mudarib), who contributes expertise and know-how.

The detailed Islamic products mentioned below are offered by 18 out of the 20 approved banks.

c) Savings instruments

- **Deposit accounts:** These are accounts that hold funds entrusted to a bank by individuals or entities, with the promise of returning the funds or their equivalent upon request or under agreed conditions.
- **Investment deposit accounts:** These are term investments left with the bank to be invested in Islamic finance operations to generate profits.
- **Crowdfunding:** The order of September 4, 2023, approved the regulations of the Commission for the Organization and Supervision of Stock Exchange Operations, issued on April 12, 2023, in accordance with the provisions of Article 45 of the Complementary Finance Law for 2020. This regulation pertains to crowdfunding investment advisors (CIP) in Algeria and establishes guidelines for their accreditation, practice, and oversight. The regulation implements measures to regulate activities related to crowdfunding, also known as participatory investment, in order to protect the interests of participants, project owners, and the general public.

  The afore mentioned regulation outlines the specific conditions that commercial companies must meet to obtain accreditation, such as having their headquarters in Algeria, the integrity of the directors, the training of activity managers, material and IT resources, work procedures, and internal control. Furthermore, it specifies that CIPs wishing to offer platforms dedicated to Islamic crowdfunding must obtain a Shariah compliance certificate from the national Shariah authority for the Islamic finance industry.

  As for accredited intermediaries in stock exchange operations (IOB) and investment fund management companies (SGFI) wishing to engage in CIP activities, they must also meet certain conditions, such as appointing a responsible person for the activity and providing appropriate material and IT resources. All CIPs must subscribe to professional liability insurance to cover the risks associated with their activities.

CHAPTER 18

Hydrocarbons & mining sector

For a detailed study, refer to the Hydrocarbons Guide

This guide compiles essential information about the hydrocarbons sector in Algeria, its key characteristics, and the various laws and reforms implemented in this strategic sector.

1. Hydrocarbons regime

Hydrocarbon activities include:

- Upstream activities, namely exploration, research, appraisal, development, and production of hydrocarbons.
- Downstream activities, namely pipeline transportation, refining, processing including the production of lubricants and the regeneration of used oils, storage, and distribution.

Hydrocarbon activities are governed by the following laws:

- Law No. 86-14 of August 19, 1986, relating to the activities of exploration, research, production, and pipeline transportation of hydrocarbons, as amended and supplemented by Law No. 91-21 of December 4, 1991. Although abrogated, Law No. 86-14 remains applicable to contracts concluded under its framework.
- Law No. 05-07 of April 28, 2005, relating to hydrocarbons, as amended and supplemented by Law No. 13-01 of February 20, 2013. Although abrogated, Law No. 05-07 remains applicable to contracts concluded under its framework.
- Law No. 19-13 of December 11, 2019, governing hydrocarbon activities.

It should be noted that implementing texts have been issued to specify the modalities for the application of each of the afore mentioned laws [121].

121 For a detailed study of the legal framework applicable under laws No. 86-14 and No. 05-07, as amended and supplemented, as well as law No. 19-13, see the Hydrocarbons Guide, KPMG Algeria

1.1. Legal framework

Law No. 19-13 defines:

- The legal regime applicable to hydrocarbon activities.
- The institutional framework governing the conduct of hydrocarbon activities.
- The rights and obligations of persons engaged in hydrocarbon activities.

1.1.1. Legal regime applicable to hydrocarbon activities

a) Occupation of land

The national company, the contracting parties, the concessionaire, and the prospector can occupy the land necessary for their activities or carry out infrastructure works. They can construct the necessary facilities for their activities and benefit from the following rights and advantages:

- Occupation of the land and associated rights;
- Easements for access, passage, and aqueducts.

Expropriation by the state of the land necessary for upstream activities and pipeline transport is carried out exclusively for the benefit of the national company. To do so, the procedures required to grant these rights must be initiated with the competent authority (AHR or ALNAFT).

b) Exercising hydrocarbon activities

Which is considered a commercial activity, requires having the necessary technical and/or financial capabilities and being previously authorized as follows:

— Prospecting

Except for prospecting work undertaken under an upstream concession or a hydrocarbon contract, such activities can only be carried out after obtaining a prospecting authorization issued by ALNAFT for a period of 2 years, which can be renewed for a maximum period of 2 years. ALNAFT may withdraw the authorization at any time under the conditions specified in the authorization. In the case of a competitive bidding process for the conclusion of a hydrocarbon contract, prospectors are granted a right of preference (including for prospectors whose authorizations have expired within the last year).

Within a period not exceeding 1 year following the expiration of the prospecting authorization:

- The national company may request from ALNAFT the granting of an upstream concession.
- The prospector and the national company may jointly request ALNAFT to issue a attribution act in order to conclude a hydrocarbon contract, provided that the area in question has not already been allocated.

In both cases, the prospecting expenses are then considered as research investments. The granting of an upstream concession or the conclusion of a hydrocarbon contract results in the expiration of the prospecting authorization, without compensation or the right of recourse for the prospector.

— Upstream concessions

The national company may solely carry out upstream activities under an upstream concession with an initial duration of 30 years. The national company may decide to transfer part of its rights and obligations in an upstream concession by entering into

a hydrocarbons contract with the assignee. The upstream concession ceases to be effective upon the publication of the decree approving the hydrocarbons contract in the Official newspaper.

— Hydrocarbons contracts

The hydrocarbons contracts to be concluded by the national company with one or more co-contractors will take one of the following forms:

- Participation contract.
- Production sharing contract.
- Risk service contract.

Hydrocarbon contracts, governed by Algerian law, are concluded for a duration of 30 years from their entry into force.

This duration includes a research period that cannot exceed 7 years (with the possibility of an extension of 2 years, and an exceptional additional extension of 6 months), followed by an exploitation period.

These contracts may be extended for an additional 10 years. The duration of contracts related to discovered fields is 25 years, with a possible extension of 10 years.

The conclusion of hydrocarbon contracts: ALNAFT must first grant, through an attribution act, the right for the contracting parties to carry out upstream activities in a designated area. The contracts are then concluded by the contracting parties following a competitive bidding process organized by ALNAFT. It is important to note that the national company can conclude a contract through direct negotiation, after consulting with ALNAFT, which issues an attribution act for this purpose.

The rule 49-51 is maintained regarding the national company's partnerships with foreign co-contractors:

- For participation contracts, the national company's participation rate is set at a minimum of 51%;
- For production sharing contracts, the share of production allocated to the foreign co-contractor cannot exceed 49%;
- For risk service contracts, the cash payment to the foreign co-contractor cannot exceed 49% of the total production value from the exploitation area.

Upstream concessions and hydrocarbon contracts are approved by a decree taken in the Council of Ministers and enter into force on the date of publication of the afore mentioned decree in the Official newspaper. The monitoring of abandonment and site restoration is carried out by the ARH in collaboration with the relevant local government services.

c) Downstream activities

— Pipeline transport concession

The national company can carry out pipeline transport activities based on a concession granted by a decree from the Minister for a period of 30 years (with an extension under the conditions set by the concession). The concession application is submitted to the ARH, which provides a recommendation to the Minister. The monitoring of site abandonment and restoration is carried out by the ARH in collaboration with the relevant regional services.

— Refining and transformation

The national company can carry out these activities, either alone or in partnership with any other Algerian entity and/or a foreign legal person, after obtaining authorization from the Minister based on the recommendation of the ARH.

— Storage and distribution of petroleum products

These activities are carried out by any entity, in accordance with the applicable regulations, after obtaining authorization from the Minister based on the recommendation of the ARH. The minimum participation rate of the Algerian entity is set in accordance with the applicable regulations.

1.1.2. Institutional framework governing the exercise of hydrocarbon activities

Law No. 19-13 has redefined the roles of each institution responsible for hydrocarbon activities, including:

- The Ministry of Energy and Mines (Minister).
- The National Agency for Hydrocarbon Resource Development (ALNAFT), which plays a leading role in upstream activities.
- The National Agency for Water Resources (ARH), which is responsible for ensuring compliance with applicable regulations and making recommendations to the Minister regarding the conduct of downstream activities.

The Minister is primarily responsible for:

- Request the attribution of mining titles to ALNAFT.
- Seek approval for upstream concessions, their amending acts, and hydrocarbon contracts.
- Grant exploitation authorizations for installations related to the hydrocarbon sector, pipeline transport concessions, and authorizations for refining, processing, storage, and distribution of petroleum products, based on the recommendation of ARH.

1.2. Tax regime

1.2.1. Tax regime under Law No. 86-14

Under the contracts concluded under the regime of Law No. 86-14, the foreign operator is not considered a full Algerian tax subject for the income derived from its participation, even though it is subject to declaration obligations. However, the income derived from the exploitation of hydrocarbons is subject to taxation in the form of withholding tax.

The taxes applicable under the afore mentioned law are as follows:

— Royalty

The royalty is applied to the gross income and is paid by SONATRACH for the total production. The standard rate for this royalty is 20% and may be reduced to 16.25% for Zone A or 12.5% for Zone B.

— Tax on remuneration

This tax applies to the share of profit earned by the foreign partner.

To determine the profit, the gross revenue is reduced by the amount of the royalty, transportation costs, depreciation costs (investment costs for exploration, development, and exploitation), and operating costs.

This profit is then multiplied by the percentage share of the foreign partner in the contract.

The resulting amount is the net remuneration before tax for the foreign partner. This amount is paid to the foreign partner in kind by SONATRACH.

This remuneration is subject to a 38% withholding tax, which is deducted at source by SONATRACH. This tax is borne by SONATRACH.

— Tax on profits

This tax applies only to the portion of the profit allocated to SONATRACH. This portion is determined based on the profit after deducting the share allocated to the foreign partner and the tax on the corresponding remuneration. The tax rate is a maximum of 85%. Reduced rates of 75% for zone A and 65% for zone B apply.

— Tax on exceptional profits

This tax, established by Order No. 2006-10 of July 29, 2006, with a rate ranging from 5% to 50%, is due when the average price of crude exceeds 30 USD/barrel. The tax rate is determined by the price level on one hand, the level of production from a given field on the other hand, and finally, the compensation formula specified in the contract.

1.2.2. Tax regime issued by Law No. 05-07, as amended and supplemented

Under Law No. 05-07, as amended and supplemented, the foreign investor is required to settle and pay the taxes they are legally liable for. The law also stipulates that all investors, including SONATRACH, have the same tax status, meaning that each investor is:

– A taxable subject;
– Legally liable;
– Actually liable, unless otherwise specified by contractual provisions.

1.2.2.1. Tax regime for upstream (exploration and/or exploitation activities)

Oil companies, whose activities involve exploration and/or exploitation of hydrocarbons, fall under the tax regime of law No. 05-07 and are subject to the surface tax, the petroleum royalty, the oil revenue tax, the additional tax on profit, the flaring tax, property tax, the specific water tax, a transfer fee for interests, and a specific tax on CO2 emissions.[122]

Other taxes and duties were established by law No. 13-01, notably those related to the regime of unconventional hydrocarbons, namely:

– The royalty applicable to unconventional hydrocarbons;
– The tax on petroleum income for unconventional hydrocarbons;
– The additional tax on profit for unconventional hydrocarbons.

a) Taxe superficiaire

The surface tax is an annual tax. It is due by the operator who is responsible for the liquidation and payment of this tax.

From a tax perspective, the surface tax is a non-deductible expense. It is calculated based on the area of the perimeter, starting from the commencement of the contract.

It is payable either in dinars or in dollars [123].

122 Article 83 of Law No. 05-07.
123 Article 84 of Law No. 05-07, as amended by Law No. 13-01.

The amount of the tax due is updated annually (on January 1st of each year) according to the following formula:

– (TCHmvn-1) (M/80)
– TCHmvn-1 = the average exchange rate, at the sale, of the US dollar for the month of December of each year.
– M = the amount of the tax set according to the schedule in the table below.

The tax is collected according to the following scale:

Years	Exploration period (years)			Retention period and exceptional period	Exploitation period
	1 to 3	4 to 5	6 to 7		
Zone A	4 000,00	6 000,00	8 000,00	400 000,00	16 000,00
Zone B	4 800,00	8 000,00	12 000,00	560 000,00	24 000,00
Zone C	6 000,00	10 000,00	14 000,00	720 000,00	28 000,00
Zone D	8 000,00	12 000,00	16 000,00	800 000,00	32 000,00

b) Petroleum royalty

The royalty is an annual tax. It is paid monthly in cash or in kind, in accordance with the provisions of the contract. The quantities of hydrocarbons corresponding to the in-kind royalty are determined by the National Agency for the Valorisation of Hydrocarbon Resources (ALNAFT), based on the cash royalty.

The cash royalty is determined based on the value of the production from the exploration area, calculated in accordance with the provisions of Articles 90 and 91 of Law No. 05-07, as mentioned above, and the royalty rates specified in the contract [124].

The quantities corresponding to the in-kind royalty, as determined above, are delivered to the national company SONATRACH SPA [125], which must pay the National Agency for the Valorisation of Hydrocarbon Resources (ALNAFT) the cash royalty amount corresponding to said quantities.

The value of the hydrocarbon production is equal to the product of the quantities of hydrocarbons subject to the royalty by the base prices minus the pipeline transportation tariff [126]. The royalty rates, which are set in each contract, cannot be lower than the levels shown in the table below:

Production level *	Zones	A %	B %	C %	D %
< 100 000 bep/day	0 to 20 000 bep/day	5,5	8	11	12,5
	20 001 to 50 000 bep/day	10,5	13	16	20
	50 001 to 100 000 bep/day	15,5	18	20	23
> 100 000 bep/day **	100 000 bep/day	12	14,5	17	20

* Bep : barrel of oil equivalent. ** According to Article 85 of Law No. 05-07 as amended by Law No. 13-01.

For the quantities of unconventional hydrocarbons from an exploitation area, the applicable royalty rate on the entire production is set at 5% [127].

An agreement is concluded between the National Agency for the Valorisation of Hydrocarbon Resources (ALNAFT) and the national company SONATRACH SPA, to define the

124 Article 85 of Law No. 05-07.
125 Ibid. Article 26.
126 Ibid. Article 91 as amended by Law No. 13-01.
127 Ibid. Article 85.

practical modalities regarding the handling by SONATRACH SPA of the quantities of hydrocarbons corresponding to the in-kind royalty [128].

The royalty is deductible from the taxable base of the Additional Tax on Income (ICR); it is considered a deductible expense [129]. The royalty is paid monthly by the operator, on behalf of the contractor, to ALNAFT before the 10th of the month following the production, via payment slips (BAV).

Any delay in the payment of the royalty results in a surcharge of 1 per thousand (1 ‰) for each day of delay.

c) Tax on petroleum income (TRP)

The tax on income, is a tax on income derived from hydrocarbon exploitation activities. It is an annual tax paid in the form of monthly instalments. It is calculated and paid by the legal taxpayer without prior notice [130].

The basis for the TRP (Tax on Petroleum Revenue) is the petroleum income, determined by the cumulative value of annual production, minus the legally deductible expenses.

The deductible expenses consist of:

- the royalty;
- annual tranches of development investment in the exploration perimeter, approved in the annual budgets. The depreciation of these investments is adjusted by the UP-LIFT coefficient;
- annual tranches of research investments, adjusted by the UP-LIFT coefficient;
- provisions for abandonment and/or restoration;
- training costs for human resources dedicated to the activities covered by the law;
- the cost of purchasing gas intended for enhanced recovery.

The UP-LIFT coefficients are as follows:

Zones	A and B	C and D	Recovery / Assisted
Depreciation rate	20 %	12,5 %	20 %
UP LIFT rate	15 %	20 %	20 %

Furthermore, the TRP is considered a deductible expense and, as such, is deductible from the base of the ICR. The TRP is payable in 12 monthly instalments, before the 25th of the month following the one for which they are due. It is calculated and the balance is paid, without warning, before the submission of the annual declaration. In case of delay, the amounts owed are subject to a late penalty of one per thousand (1 ‰) per day of delay [131].

Law No. 13-01 introduced a new methodology for calculating the tax on petroleum income, based on the project's profitability.

For the purpose of calculating the TRP related to the exploitation area concerning oil and gas exploration and exploitation contracts, the coefficients R1 and R2 have been introduced and are defined as follows:

- For a given calendar year, the R1 coefficient is equal to the ratio of the cumulative gross profits (PBI (10%)) from the year the contract came into force until the year preceding the year of determining the TRP rate, over the cumulative ((ii) (10%)) from the year the contract came into force until the year preceding the year of determining the TRP rate.

128 Article 9 of Decree No. 14-227.
129 Article 85 of Law No. 05-07.
130 Ibid. Article 94.
131 Ibid. Article 94.

– For a given calendar year, the R2 coefficient is equal to the ratio of the cumulative gross profits (PBI (20%)) from the year the contract came into force until the year preceding the year of determining the TRP rate, over the cumulative ((ii) (20%)) from the year the contract came into force until the year preceding the year of determining the TRP rate [132].

It should be noted that this revision of the methodology for determining the TRP rate is based on the project's profitability rather than on revenue.

Based on the values of the R1 and R2 coefficients, the rates set in the following table are applied:

TRP Rate	Case 1	Case 2	Case 3
R1<1	20%	30%	20%
R1>1 et R2<1	20% +50% x R2	30% +40% x R2	20% +50% x R2
R2 >1	70%	70%	70%
	Any exploitation perimeter, excluding the perimeters of Case 3 defined below, whose maximum daily production is:		Any exploitation perimeter located in very underexplored areas, with complex geology and/or lacking infrastructure.
	< 50 000 bep.	≥ 50 000 bep.	

For unconventional hydrocarbons, the calculation of the TRP is carried out as follows: This calculation introduces the coefficients R1 and R2 mentioned above, and the calculation is as follows:

Coefficients	**R1 ≤ 1**	**R1 > 1 et R2 < 1**	**R2 ≥ 1**
TRP Rate	10%	10% +30% +R2	40%

d) Additional tax on income (ICR)

The additional tax on income (ICR) is assessed under the general legal conditions.

The rate of the ICR is 30% (initially in law No. 05-07, before its amendment, the ICR rate was indexed to the rate of IBS). In case of delay, the amounts due are subject to a late penalty of 1%.[133]

Furthermore, each party participating in the contract related to unconventional hydrocarbons and contracts in the areas of Case 1 and Case 3 is subject to an ICR set at 19%, according to the conditions in force at the time of payment.[134]

The said rate applies as long as the R2 coefficient is less than 1. When the said R2 coefficient is equal to or greater than 1, the applicable ICR rate is set at 80%.

Each party participating in the contract and investing in activities covered by the law related to hydrocarbons and in activities covered by the law related to electricity and gas distribution by pipeline benefits from the reduced ICR rate.

The methods for calculating the ICR, as well as the deductible and non-deductible expenses, are defined by Executive Decree No. 14-148 of April 30, 2014.

Executive Decree No. 15-282 introduced the implementation methods for consolidating results and the application of the reduced ICR rate for a list of activities that can be consolidated.

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132 Article 87 of Law No. 05-07 as amended by Law No. 13-01.
133 Article 88 of Law No. 05-07 as amended by Ordinance No. 06-10.
134 Article 88 bis, Law No. 05-07, as amended by Law No. 13-01.

Each person participating in the contract can consolidate:

– The results of all their activities in Algeria subject to the hydrocarbons law.
– The results of their activities subject to the hydrocarbons law, as well as the results of activities subject to the law on electricity and the distribution of gas through pipelines.

e) Tax on flaring

Gas flaring is prohibited. However, ALNAFT may grant exceptional authorizations for a limited duration.

In these conditions, the operator benefiting from the authorization must pay a specific non-deductible tax on the flared gas volumes, amounting to 8,000 DA per thousand standard cubic meters (Nm3) of flared gas [135].

However, in the case of remote or isolated areas, specific pricing conditions are set by regulatory means [136].

Zone	**Tariff** (DA/10 Nm3)
100 km ≥ Zone > 200 km	7.000
200 km ≥ Zone ≥ 300 km	6.000
Zone > 300 km	4.000

The following are excluded from the payment of this specific tax: the quantities of gas flared during the compliance period referred to in Article 109 below, as well as the quantities of gas flared during the exploration phase for well testing and/or delineation operations. Also excluded from this specific tax are the quantities of gas flared during the commissioning period of installations for periods not exceeding the thresholds set by ALNAFT.

This tax is updated according to the following formula:

– The average exchange rate of USD to DA for the calendar month preceding the payment date, published by the Bank of Algeria, divided by 80 DA and multiplied by the amount of the tax set above [137].
– Similarly, the use of water extracted from the public domain for enhanced recovery purposes is subject to a fee of 80 DA per cubic meter.

f) Property tax

The property tax is assessed and paid in accordance with the general legal provisions.

g) Tax on the transfer of interests

– The transfer of interests in a research contract or in a research/production contract or a production contract is subject to a flat tax at a rate of 1% of the transaction value [138].
– The tax base is constituted by the value of the transfer.
– The value of the transfer differs according to the following cases:

— In the case of the transfer of interests in the contract

– The amount of all payments to be made by the buyer to the seller in exchange for the acquisition of the participation in the contract.

135 Article 52 of Law No. 05-07 as amended by Law No. 13-01.
136 Article 3 of Executive decree No. 13-400.
137 Article 52 of Law No. 05-07 as amended by Law No. 13-01. 119.
138 Article 31 of Law No. 05-07 as amended by Law No. 13-01.

- The amount of the estimated costs of any investment, work, financing, or any other obligation undertaken by the buyer, excluding the share of future costs.
- The amount of the value of any other benefit accumulated by the seller in exchange for the transfer of participation in the contract.

— In the case of a change of control

- The amount of all payments to be made by the buyer of the shares to the seller.
- The value of any other benefit that is not a financial payment, accumulated by the seller, in exchange for the acquisition of shares.

— In the case of a merger or acquisition of companies

- The production to which the seller is entitled under the contract, multiplied by the value of the barrel of oil equivalent (Bep), given by the ratio between the value of the total transaction and the volume of all the reserves acquired through all the interests and rights acquired by the buyer overall following the merger or acquisition.

— In the case of a merger or acquisition of companies if no discovery has yet been declared commercially exploitable

- The equivalent of the total sum of all obligations that the acquirer would have to assume on behalf of the transferor related to the contract, plus any payments or benefits to the transferor and, if applicable, any debt assumed on behalf of the transferor.
- The tax in question is not deductible.
- This tax is not due in the case of transfers between an entity and its subsidiaries, whose capital is fully and directly owned by the entity and does not involve a commercial transaction [139].

h) Exemptions

Research and/or exploitation activities are exempt from:

- Value-added tax (VAT).
- Customs duties.

The equipment and services eligible for exemption from VAT and customs duties are those listed in a list established by regulatory text.

Furthermore, these activities are exempt from:

- VAT.
- Any tax on the operating results of these activities collected for the benefit of the State,
- Local authorities, as well as any public legal entity.

Note: The 2011 Finance Law (Article 28) extends the VAT exemption to goods, services, and works intended for the construction of refining infrastructures acquired or carried out by the company SONATRACH and those acquired or carried out on its behalf, as well as the associated oil companies and their subcontractors working in the sector.

139 Article 31 of Law No. 13-01.

1.2.2.2. Fiscal regime of the downstream sector (pipeline transportation, liquefaction, and gas processing)

Activities in the downstream sector are subject to the IBS (Income Tax) at a rate of 23%. Therefore, downstream activities are excluded from the fiscal regime for hydrocarbons under law No. 05-07. They fall under the general legal regime. However, these activities benefit from exemptions in terms of VAT and customs duties.

Furthermore, the salaries of employees of foreign oil companies are exempt from social security contributions when these employees continue to be covered by the social security organization to which they were subscribed before coming to Algeria.

1.2.3. Tax regime under Law No. 19-13 applicable to new contracts

Law No. 19-13 provides that taxes will be paid by the national company or by the contracting parties, depending on the type of contract.

They will thus be paid by the national company in the case of an upstream concession, a production sharing contract, or a risk service contract, and by the contracting parties in the case of a participation contract.

However, contracts concluded under the law No. 05-07 remain in force in accordance with their terms, including in terms of taxation. Nevertheless, it should be noted that the contractor, a party to a research and/or exploitation contract, may request to benefit from the provisions of law No. 19-13, provided that:

– That no production has been made before February 24, 2013, under a development plan approved within the framework of this contract.
– That the request be submitted for examination by ALNAFT within a period not exceeding one year from the date of publication of law No. 19-13.

1.2.3.1. Tax regime applicable to upstream activities

The restructuring of the tax system for upstream activities is primarily based on six taxes and duties. These are:

– The surface tax,
– The hydrocarbons royalty,
– The hydrocarbon income tax (IRH),
– The tax on income,
– The tax on the remuneration of the foreign co-contractor; and
– The flat-rate levy on anticipated production.

Moreover, it should be noted that a reduced rate is intended to apply, under certain conditions, to the hydrocarbons royalty and the IRH (Hydrocarbons Income Tax).

a) Surface tax

The surface tax will be owed by the national company in the case of an upstream concession, a production sharing contract, or a risk service contract, and by the contracting parties in the case of a participation contract.

It is payable by any authorized payment instrument, no later than the 20th of the month following each anniversary date of the entry into force of the upstream concession or the hydrocarbons contract, to the tax administration.

The amount of the tax due is indexed, by ALNAFT, at the beginning of each calendar year, according to the consumer price index published by the public body responsible for publishing said index in Algeria. The tax is collected according to the following scale:

Period		Unit amount in DA/Km²
Exploration period	From the 1st year to the 4th year inclusive	7 000
	From the 5th year to the 7th year inclusive	14 000
Period: of exceptional expansion, extension, retention		40 000
Exploitation period		30 000

b) Hydrocarbons royalty

Previously referred to as the petroleum royalty, it is declared to the tax administration and paid no later than the 15th of the month following the production month to ALNAFT by bank cheque or any other authorized payment instrument.

It is paid by the national company or the contracting parties, as the case may be, and then regularized before March 1st of the year following the concerned year.

ALNAFT transfers the hydrocarbons royalty to the tax administration after a deduction of 0.5%.

From a tax perspective, the hydrocarbons royalty is a deductible expense. It is determined based on the value of the production from the exploitation area, calculated in accordance with the provisions of Article 173 of Law No. 19-13, and the applicable hydrocarbons royalty rate, set at 10%.

c) Tax on hydrocarbon income (IRH)

Previously referred to as the Petroleum Revenue Tax (TRP), it is declared and paid by the national company or the contracting parties, depending on the case.

The annual hydrocarbon income is made up of the value of the annual hydrocarbon production, minus the following deductions:

- The hydrocarbon royalties.
- The annual tranches of development investments exclusively allocated to the exploitation perimeter.
- The annual tranches of research investments made in the perimeter.
- The annual operating costs related to hydrocarbon production, including abandonment costs and site restoration carried out during the exploitation phase.
- The provisions established to cover abandonment costs and site restoration.
- The cost of purchasing gas for production and recovery purposes.
- The gross remuneration of the foreign co-contractor, in the case of a production-sharing contract or a risk service contract.
- The negative base from the previous fiscal year(s).

The rate of the hydrocarbon income tax is calculated based on the factor (R), which is equal to the ratio of cumulative net income to cumulative expenses.

Based on the values of the factor (R), the following rates are applied:

Factor (R)	R ≤ 1	R ≥ 3	1 < R < 3
Rate of the tax on hydrocarbon income	10 %	50 %	20% x R-10%

Regarding the year of entry into force of the hydrocarbon contract or the upstream concession, covering a producing field, the rate of the tax on hydrocarbon income is 50%.

The settlement balance is paid by the national company or the contracting parties, no later than March 31 of the year following the relevant fiscal year.

d) Tax on income

Previously referred to as the additional tax on income (ICR), it is due on the income for the financial year generated by the national company or the contracting parties. For the calculation of the tax, the income for the financial year is determined as follows:

– Taking into account all the hydrocarbon contracts and upstream concessions for the national company.
– Taking into account their participation rate in all the participation contracts to which the said person is a party, for individuals other than the national company.

The calculation of the annual result is subject to the provisions of law No. 19-13 governing hydrocarbon activities, the provisions of the code of direct taxes and related taxes regarding the determination of taxable profit, as well as the depreciation rates for investments set by regulatory means.

The income tax is determined by multiplying the annual result by the income tax rate, which is set at 30%.

The income tax is declared and paid by the national company or the contracting parties to the tax administration, no later than the due date for submitting the annual income declaration for the fiscal year.

e) Tax on the remuneration of the foreign co-contractor

Reintroduced by Law No. 19-13, it is an annual tax determined by the product of the remuneration of the foreign co-contractor, under a production-sharing contract or a risk service contract, set in accordance with the contractual provisions. The tax rate is set at 30%.

The in-kind royalty is determined by the National Agency for the Valorisation of Hydrocarbon Resources (ALNAFT), based on the monetary royalty.

Furthermore, if the remuneration is determined in kind, the valuation of the concerned quantities is carried out by applying the prices defined in accordance with the hydrocarbon contract. The tax on the remuneration of the co-contractor is payable in 12 provisional instalments on the tax due for the fiscal year, no later than the 25th of each month.

The afore mentioned tax is settled by the foreign co-contractor at the end of the fiscal year with the tax administration, no later than March 20th of the following year.

The amount of the tax on remuneration is paid by the national company on behalf of the foreign co-contractor, without relieving the foreign co-contractor of its obligations regarding this tax.

For the national company, the gross remuneration of the foreign co-contractor is considered a deductible expense for the calculation of the income tax.

f) Flat-rate fee on anticipated production

Introduced by Law No. 19-13, it is a tax owed by the operator who carries out early production. It is determined by multiplying the value of the production by the rate set at 30%.

The flat-rate fee on early production is not taken into account for the calculation of the hydrocarbons income tax and the income tax, in cases where the concerned area has undergone an approved development plan.

The flat-rate fee on early production is declared and paid by the national company or the contracting parties to the tax authorities.

The flat-rate fee on early production is payable no later than the 20th of the month following the month of production.

The afore mentioned fee is regulated by the national company or the contracting parties, no later than March 1st of the year following the concerned year.

g) Application of reduced rates

Reduced rates are granted during the process of awarding the perimeter in terms of the hydrocarbons royalty and the hydrocarbon income tax for the national company or the contracting parties, if one of the following situations occurs:

– A complex geology; and/or
– Technical difficulties in extracting hydrocarbons; and/or
– High development or operating costs.

The reduced rate may be requested by the national company or the contracting parties, as applicable, by submitting a request to ALNAFT when submitting the development plan for approval. ALNAFT will have 30 days from the receipt of the request to issue an opinion to the minister in charge of hydrocarbons.

The reduced rates are granted by a joint order from the Minister of Finance and the Minister of Hydrocarbons, and cannot be lower than the rates set in the following table:

Tax		Reduced rate
Royalty		5 %
Tax on Hydrocarbon Income	**Tmax**	20 %
	R ≥ 3	
	R ≤ 1	10 %
	1 < R < 3	((T max / 2) – 5 %) x R + (15 % – (T max / 2))

1.2.3.2. Transfer rights (upstream activities)

Previously referred to as the tax on the transfer of interests, the transfer of interests in upstream activities remains subject to a transfer duty at a rate of 1% of the transaction value, payable by the co-contractor to the tax authorities.

1.2.3.3. Other rights and taxes applicable to hydrocarbon activities

a) Specific gas flaring tax applicable to hydrocarbon activities

This tax has been increased to 12,000.00 DA per thousand normal cubic meters (Nm3) of gas flared.

The amount of the tax is indexed by ALNAFT at the beginning of each calendar year according to the consumer price index published by the public organization responsible for publishing this index in Algeria. The afore mentioned tax is declared and paid by the national company or the contracting parties, as applicable for downstream activities, or by the concessionaire for pipeline transportation activities, to the tax administration no later than January 31 of the year following the relevant fiscal year.

Any gas flaring operation without authorization or exceeding the authorized quantities will result in the payment of the tax with a 50% surcharge.

The following quantities of flared gas are exempt from the payment of this specific tax:

– During the execution of research activities, during exploration well testing and/or delineation operations, during the implementation of the pilot.
– During the start-up period of new installations for periods not exceeding the thresholds set by AL-NAFT and ARH.
– For areas where the infrastructure enabling the recovery and/or evacuation of gas is absent or limited.
– For installations undergoing compliance works.

b) Hydraulic royalty applicable to hydrocarbon activities

The hydraulic royalty, previously included in the flaring tax, is a specific non-deductible tax. It is due by the operator who uses water in upstream activities by withdrawing it from the public hydraulic domain.

It is payable by the national company or the contracting parties, depending on the case.

1.2.3.4. Tax, para-tax, and customs exemptions for hydrocarbon activities

The exemptions provided by Law No. 05-07, as amended and supplemented, remain unchanged. Except for the newly introduced taxes, the application procedures set forth by Law No. 05-07, as amended and supplemented, remain applicable.

a) Tax regime applicable to downstream activities

Downstream activities are subject to the provisions of common law.

2. Mining regime

2.1. Mining operations

Law No. 01-10 of July 3, 2001 was abrogated and replaced by Law No. 14-05 concerning the mining law. The provisions of this law apply to geological infrastructure activities, research, and exploitation of mineral or fossil substances, excluding water, liquid or gaseous hydrocarbon deposits, and oil and gas shale.

Mining activities are considered commercial acts and can only be carried out under a mining permit.

Mining research consists of two phases: a prospecting phase and an exploration phase.

- **Prospecting phase**

The mining prospecting activity is an operation defined based on the extent of the area being prospected (tactical prospecting on small areas and strategic prospecting on large areas) and based on the nature of the minerals being searched for (specialized prospecting or search for specific mineral indicators and versatile prospecting or search for indicators of multiple minerals).

It consists of topographic, geological, and geophysical examination, site reconnaissance, and other specialized searches for surface mineral indicators in order to determine the mineralogical attributes and geological characteristics of the land.

- **Exploration phase**

The mining exploration activity involves conducting geological and geophysical studies related to the structures and underground geology, evaluation works through excavation, sampling, and drilling, defining and analysing textural, grade, mineralogical, physical, and chemical criteria, conducting mineral processing tests, defining the beneficiation process, preparing the feasibility study for the technical and economic development and exploitation of the deposit, including a detailed timeline of the work to be done, consideration of the environment, and post-mining aspects.

The operator must demonstrate the technical and financial capabilities necessary to carry out the mining research and exploitation works.

Two national agencies are established, with legal personality and financial autonomy, called "Mining Agencies":

– One agency for the management of geological infrastructure, hereinafter referred to as: Geological Service Agency of Algeria (ASGA);
– One agency for the management of the mining heritage and the control of mining activities, herein-after referred to as: National Agency for Mining Activities (ANAM).

2.2. Attribution of mining titles for mineral exploration

• For exploration

The mining prospecting permit is granted to the applicant for carrying out a program of tactical or strategic prospecting for the search of a specific mineral or for the search of indicators of several minerals.

The permit is granted upon payment of the act establishment fee. The duration of the permit cannot exceed 1 year. The holder may request a maximum of 2 extensions of 6 months each, provided that the obligations incumbent upon them under the previous prospecting permit have been met.

It grants its holder the right to access the authorized perimeter to carry out geological reconnaissance and any surface mining investigation and prospecting work but does not confer the right to perform works that could harm the interests of the landowner, the holder of real rights, or the rightful heirs.

• For mining exploitation

Mining exploration work can only be undertaken under a mining exploration permit.

The duration of an exploration permit cannot exceed 3 years. Its holder may request a maximum of 2 extensions, each lasting no more than 2 years.

The renewal may be granted if the permit holder has fulfilled all their obligations and if they propose, in their extension request, a work program adapted to the results of the previous period and representing a financial effort deemed sufficient by the ANAM.

2.3. Tax advantages granted

Mining exploitation investments, particularly those intended for the creation, expansion of capacities, rehabilitation, or restructuring, are subject to the provisions set out by the legislation and regulations related to investment development.

Exemptions are granted for:

– Exemption from VAT on equipment, materials, and products intended to be directly and permanently used in activities carried out by the holders of mining permits themselves or on their behalf.
– Exemption from VAT on services, including studies and other leasing operations carried out by the holders of mining permits themselves or on their behalf.
– Exemption from customs duties, taxes, and fees on imports of equipment, materials, and products intended to be directly and permanently used for activities carried out by the holders of mining permits themselves or on their behalf.

The list of equipment, services, materials, and products intended for the execution of the afore mentioned activities that will benefit from the exemption will be determined through regulatory means.

CHAPTER 19

Electricity & gas sector

The law No. 02-01 of February 5, 2002, as amended and supplemented, relating to electricity and gas distribution by pipelines, aims to establish the rules governing activities related to the production, transportation, distribution, and commercialization of gas by pipelines. The distribution of electricity and gas is a public service activity. However, the legislator establishes the general principle of free competition for electricity production activities. The operation of the gas and electricity transmission networks is authorized to the Algerian companies responsible for the management of the gas transmission network (GRTG) and the electricity transmission network (GRTE) as the sole managers of said networks.

In order to ensure the effectiveness of the various management methods for the activities of production, transportation, distribution, and commercialization of electricity and gas, a Commission for the Regulation of Electricity and Gas (CREG) is created. This is an independent body with legal personality and financial autonomy. Its fundamental mission is to ensure the competitive and transparent functioning of the electricity market and the national gas market, in the interest of consumers and operators. Foreign operators will pay particular attention to the provisions of the law concerning their participation in the share capital of the public entities responsible for the various electricity and gas activities.

First and foremost, Sonelgaz, which held the status of a public industrial and commercial establishment (EPIC) until the enactment of the law, has been transformed into a holding company in the form of a joint-stock company (SPA). The State will remain the majority shareholder. The capital of Sonelgaz SPA's subsidiaries is open to partnerships, private shareholders, or both, as well as to employees. However, Sonelgaz SPA will remain the majority shareholder in these subsidiaries. It is important to recall that the key pillars of the 2002 regulatory framework are as follows:

- The separation of electricity production, electricity transport, and gas transport into legally autonomous subsidiaries, each with its own specific structure and assets.
- The creation of subsidiaries for distribution activities and the establishment of a concession system.
- The designation of eligible customers who have the capacity to procure electricity directly from producers, based on a consumption threshold set by regulation and intended to de-crease progressively.
- Third-party access to the network.

CHAPTER 20

Telecommunications sector

Algeria currently has three major operators in the telecommunications sector: the state-owned "historical" operator Algérie Télécom (AT), Orascom Télécom Algérie (OTA) "Djezzy," and a single private operator, Wataniya Télécom Algérie (WTA) "Ooredoo."

Since 2004, following significant investments aimed at modernizing the GSM network, AT has successfully achieved a satisfactory upgrade in the quality of its services.

In accordance with the provisions of the 2009 Complementary Finance Law, a tax on prepaid mobile phone top-ups was introduced. This tax applies to prepaid top-ups and is payable monthly by mobile operators, regardless of the top-up method.

The tax rate increased from 5% to 7% in 2017. It applies to the top-up amount for the month. The proceeds are paid by the concerned operators to the territorially competent tax collector within the first 20 days of the following month. The afore mentioned tax is applicable to the monthly revenue of mobile phone operators and is collected in the same manner as direct taxes.

The payment is made monthly, either through the declaration of taxes and duties collected in cash or by withholding at the source ("Series G No. 50") with the tax collector of the Directorate of Large Enterprises (DGE) [140].

In accordance with the provisions of the 2018 Finance Law, as amended and supplemented by the Complementary Finance Law of the same year, a tax on the activity of wholesale distributors of electronic mobile phone credit top-ups has been instituted. The tax rate for this activity is set at 1.5% of the telecommunications credit withdrawals made by telecommunications operators engaged in this activity as the main distributor.

This tax is collected by mobile phone operators at the time of each withdrawal and will be paid to the authority responsible for the regulation of postal and telecommunications services.

As of June 2023, there are approximately 5,095,219 subscribers to fixed-line internet connections, and a total of 45,287,320 subscribers for 3G/4G internet connections as of March 2023.[141]

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140 Interministerial Order of April 1, 2010, establishing the implementation procedures for the provisions of the 2009 Complementary Finance Law, which introduced this tax.

141 Website of the Ministry of Post and Telecommunications accessible at the following links: https://www.mpt.gov.dz/abintfixe/ (regarding fixed telephony internet) https://www.mpt.gov.dz/abintmob/ (regarding mobile telephony internet 3G/4G).

Law No. 2000-03 of August 5, 2000, abrogated by Law No. 18-04 of May 10, 2018, setting the general rules related to postal services and telecommunications, established an "independent regulatory authority, with legal personality and financial autonomy" called the Postal and Electronic Communications Regulatory Authority (ARPCE, formerly ARPT), hereafter referred to as the Regulatory Authority.

Among the twenty missions assigned to this institution, we will mention here the main ones, which are to:

- Ensure the existence of effective and fair competition in the telecommunications market.
- Ensure the provision of telecommunications infrastructure sharing.
- Grant operating licenses.
- Rule on disputes regarding interconnection.
- Arbitrate disputes between operators or between operators and users.

In addition, the Regulatory Authority is consulted by the Minister in charge of postal services and telecommunications for:

- preparing any draft regulatory text related to the postal and telecommunications sectors.
- preparing the specifications.

Moreover, the Regulatory Authority gives its opinion on:

- all matters related to postal services and telecommunications.
- the setting of maximum tariffs for universal postal and telecommunications services.
- the adoption of regulations related to postal services and telecommunications.
- the development strategies for the postal and telecommunications sectors.

Finally, the Regulatory Authority is authorized, among other things, to:

- make any recommendations to the competent authority.
- propose the amounts of contributions to fund universal service obligations.
- carry out any inspections within the scope of its duties, in accordance with the specifications.

Two other points should be noted here regarding the functioning of the Regulatory Authority following the principles of the rule of law. Firstly, pursuant to Article 17 of the afore mentioned law: "Decisions made by the Regulatory Authority Council may be subject to appeal before the Council of State, within one month from the date of their notification."

Next, in the context of respecting competition in the market and protecting users and consumers, the Competition Council may be seized of a practice related to the telecommunications sector; in such cases, it must send a copy of the file for opinion. This obligation stems from the general principle set out by the legislator, namely that "the Competition Council develops cooperative relationships, consultations, and information exchanges with regulatory authorities."

Competition has intensified in recent years between the three mobile operators, namely Ooredoo, Mobilis, and Djezzy. The prefixes 05, 06, and 07 each contain a block of 10 million numbers.

Djezzy, having exhausted this number, was granted the prefix (09) by the Regulatory Authority, but it does not hold a monopoly on it, as Mobilis also uses it. OTA contested the decision of the Regulatory Authority on the grounds that it created confusion in the minds of subscribers; to which the Regulatory Authority responded that it was the scarcity of available numbers that had necessitated such a measure.

To solve this issue and allow the three operators to expand the subscription ranges, the Regulatory Authority decided to introduce an additional digit in the mobile network numbering.

This change occurred on February 22, 2008. Moreover, number portability is still not effective in Algeria: the number is neither the property of the subscriber nor the operator; it belongs to the State, which allocates number blocks to the operators, who then make them available to the subscribers.

For security reasons, in 2008, the Regulatory Authority [142] carried out a large-scale operation to identify customers holding prepaid cards, with the aim of establishing a database for each operator.

The executive decree No. 22-39 of January 10, 2022, modified by executive decree No. 22-365 of October 23, 2022, abrogating executive decree No. 17-97 of February 26, 2017, aims to establish the conditions for granting the general authorization for the establishment, operation, and/or provision of electronic communication services to the public, as well as the amounts of the financial counterpart, fees, and the annual contribution related thereto.

The general authorization is granted by the Regulatory Authority for Postal Services and Electronic Communications, hereinafter referred to as "the Regulatory Authority," to any individual or legal entity constituted as an Algerian law company that commits to complying with the conditions set out in decree No. 22-39 as amended and the standard specifications for each service, under which electronic communication services can be established, operated, and/or provided.

The holder of the general authorization is subject to the payment of a financial counterpart amounting to 100,000 DA to the Regulatory Authority, upon the issuance of the general authorization. The same amount applies in the case of the renewal of the general authorization.

An annual fee amount applied to the holders of general authorization, depending on the service or services provided by the holder, is set at the sum of 10,000 DA, applicable annually to operators providing the following listed services:

- Cloud Computing data hosting and storage services;
- Internet access provision services;
- Call centers.

As for operators holding general authorizations providing Voice over Internet Protocol (VoIP) services, the fee is set as follows:

- A fixed portion of an amount of 10,000 DA that operators are required to pay upon signing the corresponding standard specifications for voice over internet transfer services, and
- A variable annual portion, calculated at a rate of 10% of the operator's revenue generated from providing voice over internet transfer services.

As for operators holding general authorizations providing premium rate interactive electronic communication services, including audiotext services, the fee is set as follows:

- A fixed portion of 10 million DA, which operators are required to pay upon signing the corresponding standard specification for premium rate interactive electronic communication services.

142 Decision 11/sP/PC/ARPT.

– An annual variable portion, calculated at a rate of 7% on the operator's revenue generated from the provision of premium rate interactive electronic communication services, including audiotext services.

For operators holding a general authorization for establishing, operating, and/or providing satellite positioning and/or radiolocation services as well as radio geolocation services, the fee is set as follows:

– A fixed part of an amount of 100,000 DA that operators are required to pay upon signing the corresponding specification document for satellite positioning and/or radiolocation services as well as radio geolocation services.
– A variable annual part, calculated based on the number of markers operated according to the following table:

Number of markers	**Amount of the annual fee** DA/excl. vat
< 1 000	20 000
≥ 1 000 et < 2 000	50 000
≥ 2 000 et < 5 000	100 000
≥ 5 000 et < 10 000	150 000
≥ 10 000	200 000

Finally, operators holding a general authorization are subject to the payment of an annual contribution dedicated to training, research, and standardization in the field of electronic communications, amounting to 0.5% of the annual gross accounting result.

- **Establishment and operation of radiocommunication stations**

Under Law No. 20-04 of March 30, 2020, relating to radiocommunications, the agency is responsible for the establishment and operation of radiocommunication stations of all kinds. These activities are subject to obtaining prior authorization issued by the National Frequency Agency, after obtaining approval from the services of the Ministry of National Defense, the Ministry of the Interior, and the Ministry responsible for Telecommunications.

When the applicant is an electronic communications operator, for the needs of its public electronic communications network, the authorization is issued by the Regulatory Authority for Post and Electronic Communications, within the limits of the frequencies allocated to it. A copy of the said authorization is transmitted to the agency within 8 days following the date of its issuance.

The issuance of the authorization for the establishment and operation of radiocommunication stations by the agency is subject to the payment of fees set by regulatory provisions.

Radioelectric equipment suppliers are only authorized to sell radiocommunication stations if the buyer has obtained an acquisition authorization. Installers of radiocommunication stations are subject to an authorization issued by the agency, after payment of a fee, under conditions set by regulatory provisions. They are not authorized to proceed with the installation of radiocommunication stations without the authorization obtained by the permit holder.

The establishment of radio electronic links with foreign states, institutions, or individuals is only authorized under the control and after the approval of the National Frequency Agency, whose powers are defined by the aforementioned Law No. 20-04, and after obtaining the agreement of the Ministry of National Defense services.

When the use of radio communication stations is not in compliance with the conditions set by the authorization or causes interference or disturbances to the operation of other

duly authorized radio equipment, the agency issues a formal notice to the licensee to take the necessary measures to comply with the said conditions or to end the identified anomaly.

If the licensee does not comply with the formal notice within 48 hours, the agency will impose one of the following administrative sanctions:

– The temporary suspension of the authorization for the establishment and operation of the radio communication station concerned by the formal notice;
– The reduction of the range and/or duration of the said authorization.

If the permit holder has an authorization issued by the postal and electronic communications regulatory authority, the agency informs it of the non-compliance in order to apply the same sanctions within 8 days following its notification. The afore mentioned administrative sanction is lifted after the conformity has been established.

In addition to administrative sanctions, any establishment and/or operation of a radio communication station without authorization, or the continuation of its operation after suspension or revocation of the authorization, is punishable by imprisonment for 6 months to 5 years and a fine ranging from 30,000 DA to 1 million DA, or one of the two penalties only. When the offender is an electronic communications operator, the fine is between 1 million DA and 10 million DA.

CHAPTER 21

Insurance sector

For a detailed study, refer to the Insurance Guide

This guide compiles everything you need to know about the insurance sector in Algeria, its players, the products offered, and the various laws and conditions governing the practice of this rapidly growing field.

The insurance sector has undergone three stages of evolution since the country's independence (1962).

The first stage occurred immediately after independence and is characterized by the takeover of existing insurance companies, which came under the control of the Ministry of Finance, and the establishment of the principle that risks located in Algeria could only be insured by authorized organizations.

A second stage saw the establishment of a state monopoly, which was notably reflected in the nationalization of existing insurance companies and the creation of certain companies, such as the Centrale de réassurance (CCR) and the establishment of mutual insurance with the creation of the Caisse nationale de la mutualité agricole.

The third and final stage is characterized by the liberalization of the insurance sector, which was primarily monopolized by the state, through the promulgation of Order No. 95-07 of January 25, 1995, relating to insurance, amended by Law No. 06-04 of February 20, 2006. The insurance market activity was opened to private investment.

Finally, the dispute between Algeria and France, which originated in 1966 during the creation of the state's monopoly on the insurance activity, was resolved in 2008 following a related Franco-Algerian agreement.

The French insurance companies' signatories to the agreement are deemed to have settled their obligations and are therefore, by this title, eligible as of right for approval to carry out insurance operations in Algeria. They are also deemed to have settled all liabilities, including taxes, related to insurance operations and their real estate assets in Algeria, their management, and their transfer.

1. Configuration of the Algerian insurance sector

According to data published by the National Insurance Council (CNA), there are currently 26 public or private insurance companies operating in the Algerian market. These companies are organized as Joint Stock Companies (SPA) or mutual societies. The insurance companies market approximately 100 insurance products across various categories of insurance and reinsurance.

In application of the regulations governing the revaluation of fixed assets, certain companies benefited in 2007 from an increase in their equity through the incorporation of the revaluation surplus, resulting in a significant improvement in the solvency margin of these companies and of the market in general. Insurance companies are represented within a professional organization known as the Union des assureurs et réassureurs (UAR). In recent years, the distribution network for insurance products has shifted slightly in favour of the intermediary network.

In 2012, the intermediary network comprised 797 insurance intermediaries, including general agents and 28 brokers, compared with 1,024 direct agencies. In 2019, the list of licensed brokers has been extended to include 41 active brokers and 76 licensed foreign reinsurance brokers.

General insurance agents (AGA) are insurance intermediaries bound by a representative contract and mandated by one or more companies. They are organized into associations.

Brokers, other intermediaries, exercise a profession that is considered a commercial activity and, as such, subject to registration in the Commercial Register. A project to create an association of professionals in this category is currently being formalized.

The activities of these various players are supervised by the Conseil National des Assurances (CNA), chaired by the Minister of Finance. The CNA's remit covers all aspects of the situation, organization and development of the insurance and reinsurance business. Four commissions are responsible for examining applications for approval from insurance companies and brokers.

2. Legislative framework and conditions for granting approval

2.1. Legal framework

The basic text is Order no. 95-07 of January 25, 1995, on insurance (Official newspaper no. 13 of March 8, 1995), amended and supplemented by Act no. 06-04 of February 20, 2006, the 2007 Finance Law, the 2008 and 2010 Complementary Finance Laws, and the 2011 Finance Law. The Insurance Order is supplemented by the following implementing regulations:

Executive decree	No.95-344	30/10/1995	Relating to the minimum capital of insurance companies, amended and supplemented.
Executive decree	No.96-267	03/08/1996	Setting the conditions and procedures for granting approval to insurance and reinsurance companies
Executive decree	No.07-152	22/05/2007	Amending and supplementing Executive Decree No. 96-267 of August 3, 1996, setting the conditions and procedures for granting approval to insurance and/or reinsurance companies
Executive decree	No.07-153	22/05/2007	Setting the terms and conditions for the distribution of insurance products by banks, financial and similar institutions and other distribution networks.
Executive decree	No.09-13	11/01/2009	Setting the standard statutes for mutual insurance companies.
Executive decree	No.09-111	7/04/2009	Setting the organization and operating procedures, as well as the financial terms and conditions of the policy-holder guarantee fund.
Executive decree	No.09-375	16/11/2009	Amending and supplementing Executive Decree no. 95-344 of October 30, 1995, on the minimum capital of insurance companies.
Decree		28/01/2007	Setting the terms and conditions for opening representative offices of insurance and/or reinsurance companies.
Decree		06/08/2007	Setting the insurance products that may be distributed by banks, financial institutions and similar entities, as well as the maximum levels of the distribution commission (No. 59 of September 23, 2007).
Decree		20/02/2008	Setting the maximum rate of participation of a bank or financial institution in the share capital of an insurance and/or reinsurance company
Decree		20/02/2008	Setting the conditions for opening branches of foreign insurance companies.
Decree		28/10/2009	Setting the annual contribution rate for insurance and/or reinsurance companies and branches of foreign insurance companies authorized to contribute to the policyholders' guarantee fund, as well as the terms and conditions for its payment and the deadline for its collection.
Decree		8/10/2013	Setting the terms and conditions for calculating the surrender value of life insurance policies
Decree		8/10/2013	Setting mortality tables and minimum guaranteed rates for life and health insurance contracts.
Decree		8/10/2013	Defining the content and form of information notices relating to personal insurance and capitalization policies.

2.2. Conditions for granting approval

Incorporation of a company under Algerian law in the form of a SPA or a mutual insurance company, Exclusive practice of insurance operations as defined in the approval. Companies are obliged to choose which line of business they wish to conduct life insurance or property and casualty insurance (articles 203, 204 and 204 bis of Order No. 95-07, as amended and supplemented).

The good morality and professional qualifications of the company's senior executives.

The constitution of share capital or an establishment fund for mutuals, as the case may be, of a minimum level, not taking into account contributions in kind, of [143]:

Contributions in kind	Form	Activities performed
600 M DA	Mutual form companies	Personal insurance and capitalization operations
1 Md DA		Casualty insurance operations
1 Md DA	Joint stock companies (SPA)	Personal insurance and capitalization operations
2 Mds DA		Casualty insurance operations
5 Mds DA		Exclusively reinsurance operations [144]

These amounts are those resulting from Executive Decree no. 09-375 of November 16, 2009.

Imports of services carried out as part of reinsurance operations are exempt from the 3% direct debit tax on imports of services introduced by the 2009 Complementary Finance Law (article 62 of the 2012 Finance Law).

The application for approval must be submitted to the Insurance Department of the Ministry of Finance and must be approved by the approval commission set up by the National Insurance Council.

Approval is granted on the basis of the information contained in the file, which makes it possible to assess the feasibility and solvency of the company.

Approval is granted by decree of the Minister of Finance and published in the Official newspaper. The decision to refuse approval is "duly substantiated", notified to the applicant and may be appealed to the Council of State ("Conseil d'État").

3. Reforms and perspectives

3.1. Measures introduced by Law No. 06-04

The objective reasons that led the public authorities to make substantial changes to the January 25, 1995, Order are mainly:

- Insignificance of the insurance sector's share of GDP (barely 0.60%).
- Lack of market transparency.
- Competition limited almost exclusively to premiums.
- Insufficient government control.
- Smallness of insurance company portfolios.

143 These amounts are those resulting from Executive Decree No. 09-375 of November 16, 2009.
144 Imports of services carried out as part of reinsurance operations are exempt from the 3% direct debit tax on imports of services introduced by the 2009 Complementary Finance Law (Art. 62, 2012 Finance Law).

– Lack of professionalization of insurance agents.
– Need to further liberalize the market.

Back in 2005, the National Insurance Council insisted on three requirements:

– Real market growth by stimulating industry activity.
– Financial security and improved corporate governance.
– Closer market supervision.

The main points of debate between public authorities and practitioners throughout the year of 2005 can be summed up as follows:

– Specialization of foreign companies in a specific product (e.g. life insurance).
– Transparency when setting up an insurance company (in particular, full payment of share capital).
– Role of the insurance market supervisory authority (particularly as regards the origin of the funds used to set up the company).
– Level of bank participation in insurance company capital.
– Procedures for appointing company directors.
– Need to appoint a provisional administrator to look after policyholders' interests.
– Need to set up a guarantee fund.
– Creation of an insurance supervisory agency with specific status and financial autonomy.

The law strengthens institutional aspects, through the bodies responsible for regulating and overseeing the insurance market. Firstly, there is the creation of a risk centralization body, whose primary role is to centralize the information to be provided by insurance companies and branches of foreign insurance companies. Then there is the Insurance Supervisory Commission (CSA), whose role is to ensure that insurance companies and branches of foreign insurance companies comply with legal and regulatory provisions.

It must also ensure that these companies are in a position to meet their commitments to policyholders; lastly, it must verify the information on the origin of the funds used to set up or increase the share capital of the insurance and/or reinsurance company.

The Commission is assisted by sworn insurance inspectors. They are empowered to carry out documentary and/or on-site inspections of all insurance and/or reinsurance operations.

The Commission intervenes when the management of an insurance and/or reinsurance company threatens to jeopardize the interests of policyholders. To this end, it can take three types of action:

– Restrict the company's activity in one or more branches.
– Restrict or prohibit the free disposal of part of the company's assets until reorganization measures are implemented.
– Appoint a provisional administrator, who may request expert evaluations of all or part of the assets or liabilities linked to the commitments of the insurance and/or reinsurance company, as well as those of the branches of foreign insurance companies.

3.2. Role of the Minister of Finance

It approves the opening of representative offices of insurance and/or reinsurance companies in Algeria.

In addition, the opening of branches of foreign insurance companies in Algeria is subject to the principle of reciprocity. The Minister also approves a professional association of

insurers under Algerian law, which foreign insurance and/or reinsurance companies are required to join.

The Minister of Finance similarly approves a professional association of general agents and brokers and establishes discretionary lists of documents that insurance and/or reinsurance companies must provide to CSA. The same applies to insurance brokers.

3.3. Legal provisions

In 2009, the legislator continued to develop the legal framework for the insurance sector:

- **Executive Decree no. 09-13 of January 11, 2009**, setting out the standard articles of association for mutual insurance companies, sets out the mandatory provisions to be included in the articles of association of mutual insurance companies. In particular, they contain provisions relating to the conditions of admission, resignation, exclusion and cancellation of members;
- **Executive Decree no. 09-111 of April 7, 2009,** setting out the organization, operating and financial terms and conditions of the policyholder guarantee fund, was issued in application of Article 213 bis of Ordinance no. 95-07, as amended and supplemented. The mission of the policyholder guarantee fund (FGAS) is to bear all or part of the debts arising from the insurance contracts of an insurance company in a situation of insolvency, should the latter's assets be insufficient. The FGAS intervenes on referral from the insurance supervisory commission, following a reasoned report from the receivership administrator noting the insufficiency of assets.
- **Executive Decree no. 09-375 of November 16, 2009,** amending and supplementing Executive Decree no. 95-344 of October 30, 1995, on the minimum capital of insurance companies, provides for an increase in the share capital of insurance companies, and for existing companies to be brought into line.
- **Decree of October 28, 2009,** setting the annual contribution rate for insurance and/or reinsurance companies and branches of foreign insurance companies authorized to contribute to the policyholders' guarantee fund, as well as the terms and conditions of payment and the deadline for collection. The annual contribution rate for the above companies is set at 0.25% of written premiums, net of cancellations, as of December 31 of the year preceding the year in question. The contribution must be paid into the account opened for this purpose by the policyholders' guarantee fund and collected no later than the 30th of September of the year in question.

Since 2010, under the terms of the 2010 Complementary Finance Law, foreign reinsurance brokers may only participate in reinsurance treaties or cessions of licensed insurance and/or reinsurance companies and branches of foreign insurance companies licensed in Algeria, after obtaining an authorization to operate on the Algerian insurance market issued by the insurance supervisory commission and approved by executive decree (article 204 of the new Order no. 95-07 of January 25 relating to insurance).

Foreign reinsurance brokers who have obtained authorization from the Insurance Supervisory Commission are included on a list drawn up by the said Commission and sent to licensed insurance and/or reinsurance companies and branches of foreign insurance companies licensed in Algeria.

In 2011, under the terms of the 2011 Finance Law [145], which amends and supplements the Code of Tax Procedure, insurance and/or reinsurance companies, insurance brokers and any organization usually engaged in personal property or real estate insurance activities

145 Art. 44 and 45, 2011 Finance Law (art. 52 bis and 42 ter new, Code of Tax Procedure).

are required to send the tax authorities a quarterly special statement of insurance policies taken out with their agencies by individuals, legal entities and administrative bodies.

The listing is transmitted, either on electronic media or by electronic means, within the first 20 days of the month following the relevant quarter.

Any violation of the provisions of the preceding paragraphs is subject to a tax fine as stipulated in Article 192-2 of the Code of Direct Taxes and Related Taxes, for each instance of undeclared insurance policies.

4. Organization and operation of insurance companies

Insurance and/or reinsurance companies are of two types:

– Those that undertake commitments whose implementation depends on the policyholders,
– Those that undertake commitments of a different nature.

Insurance and/or reinsurance companies must have a minimum share capital or establishment fund, the amount of which is set by regulation. It must be fully paid up in cash at the time of registration. A security deposit is required for the establishment of branches of foreign companies, at least equivalent to the minimum required capital, as applicable.

Insurance and/or reinsurance companies must publish their balance sheets and income statements annually, no later than 60 days after their approval by the company's governing body, in at least two national daily newspapers, one of which must be in Arabic.

Any acquisition of a stake exceeding 20% of the share capital of an insurance and/or reinsurance company is subject to CSA authorization. The same applies when the stake exceeds 20% of the company's equity. As for the maximum shareholding percentage of a bank or financial institution in the share capital of an insurance and/or reinsurance company, it is determined by a decision of the Minister in charge of Finance.

Insurance and/or reinsurance companies and foreign insurance branches must, at all times, be able to justify the valuation of the regulated liabilities they are required to establish, in accordance with the provisions of Order No. 95-07, as amended and supplemented by the 2011 Complementary Finance Law.

5. Sanctions applicable to insurance and/or reinsurance companies

There are two categories of sanctions: those imposed by the CSA (monetary penalties, warnings, reprimands, temporary suspension of executives) and those imposed by the Minister in charge of Finance (partial or total withdrawal of approval, mandatory transfer of all or part of the insurance contract portfolio).

Insurance and/or reinsurance companies that fail to meet the obligation of submitting the activity report, accounting statements, statistical data, and other documents to the CSA are liable to a fine of 10,000 DA per day of delay. In the event of non-publication of their balance sheets and income statements, the penalty is 100,000 DA.

Insurance and/or reinsurance companies that fail to comply with the mandatory insurance rates are liable to a fine that can reach 1% of their total turnover. If they disregard the provisions of Article 225 of Law No. 06-04 (concerning the maintenance of regulatory books and records), they are subject to a fine of 100,000 DA.

Furthermore, five main obligations apply to insurance and/or reinsurance companies, the violation of which is subject to a fine of 1 million DA. These include:

- Compliance with the procedure for joining the professional association of insurers.
- Adherence to legislative and regulatory provisions concerning the establishment of technical debt representations, technical provisions, and reserves.
- Obligations related to the visa requirements concerning the general terms and conditions of policies.
- The obligation to communicate to the commission the proposed rates for voluntary insurance to the CSA.
- The obligation to provide the contract for the appointment of the general insurance agent.

Finally, the insurer is liable to a fine of 5 million DA for each insurance contract concluded in violation of the provisions of the law (for example, life insurance "in case of death," which cannot be subscribed to for a minor under 13 years old without the authorization of their parents or guardian), with the obligation to fully refund the premiums paid.

CHAPTER 22

Sector of planning & urban development

It is thanks to Law No. 04-05 of August 14, 2004 (Official Journal No. 51) that the rules related to planning and urban development will experience the long-awaited clarification since the enactment of Law No. 90-29 of December 1, 1990.

1. Definition of buildable lots

They are divided into 5 types:

- Those that respect urban economics, as they are located within the buildable areas of the municipality.
- Those located on agricultural land, but do not affect the viability of agricultural operations.
- Those located in natural sites, but do not jeopardize fundamental ecological balances.
- Those that do not harm the preservation of archaeological and cultural sites.
- Those that are not directly exposed to technological and natural risks.

Furthermore, any building intended for residential use must have a potable water supply and be equipped with a sanitation system, ensuring that wastewater is not discharged on the surface.

2. Areas subject to a special regime

It is through planning and urban development instruments that measures limiting or prohibiting construction projects can be implemented. There are two categories of areas where construction is subject to strict conditions:

- Seismic zones identified based on their level of vulnerability.
- Areas exposed to technological risks, where protective perimeters are defined in advance.

3. Content of the construction project

It is developed by a contractor and a licensed architect, as part of a project management contract. The architectural plan includes the plans and documents related to:

- The placement of the structures.
- Their organization.
- Their volume.
- The expression of the façades.
- The choice of materials and colours that highlight the local and civilizational specificities of Algerian society.

The choice of materials and colours that highlight the local and civilizational specificities of Algerian society.

In addition to the architectural plan, there are technical studies which include, in particular, the civil engineering of the structures as well as the secondary state subdivisions.

Another text was issued to establish the procedures for processing and issuing urban planning documents to applicants, through Executive Decree No. 15-19 of January 25, 2015, which abrogates the provisions of Executive Decree No. 91-176 of May 28, 1991, as amended and supplemented, setting the procedures for issuing the urban planning certificate, subdivision permit, land division certificate, building permit, certificate of conformity, and demolition permit.

Essentially, the developer can specify the completion of infrastructure works by distinct blocks. The permit is issued in the form of a decree by either the president of the municipal people's assembly (APC), the Wali, or the minister in charge of urban planning. Until then, only the Wali was authorized to issue this decree. The decree granting the subdivision permit is published at the land registry office by the authority that approved the subdivision, at the applicant's expense, within one month of its notification to the applicant, in accordance with the applicable land information legislation.

Regarding the completion of infrastructure and development works, the holder of the subdivision permit may request, at their own expense, the issuance of a viability certificate confirming their compliance and completion. This certificate is required when submitting the application file for the building permit.

Regarding the building permit, this permit is issued for the purpose of constructing any new building or transforming an existing one, where the work involves changes to: the footprint, volume, façade, purpose or destination, load-bearing structure, or collective networks crossing the property, upon a request filled out and signed by the owner or their representative, or by the duly authorized tenant, or by the entity or service responsible for the land or building.

As a general rule, the issuance of the building permit falls under the jurisdiction of the president of the APC.

However, by way of exception to this rule, the competence is transferred to the Wali or the minister in charge of urban planning for certain public or private projects, as outlined in the aforementioned Executive Decree No. 15-19.

Upon completion of the construction works and, if applicable, the development works, the holder of the building permit is required to obtain a certificate of conformity for the works carried out, in accordance with the provisions of the building permit.

The issuance of the said certificate falls under the authority of the president of the relevant municipal people's assembly or the Wali, depending on the case.

4. Strengthening public authorities' oversight

It is first demonstrated by the expansion of the categories of personnel authorized to detect and report violations of the law. These include judicial police officers and agents, urban planning inspectors, municipal agents responsible for urban planning, and officials from the urban planning and architecture administration.

Once an offense is observed, it results in a report (PV) that must be signed by both the reporting agent and the person who committed the offense.

The offense may result in either the regularization of the construction if it is erected, or its demolition.

In all cases where the construction is erected without a building permit, the president of the competent APC is required to issue a demolition order within 8 days from the date of the delivery of the report (PV) confirming the offense. In the event of failure by the president of the APC, it is the Wali who issues a demolition order within a period not exceeding 30 days.

The demolition works are carried out by the municipal services. If the municipality lacks the resources to do so, the Wali requisitions all necessary means for this purpose.

Demolition decisions may be appealed before the competent jurisdiction, in accordance with the provisions of the applicable legislation, which may suspend the execution of the demolition decision until a ruling is made. The costs of demolition are borne by the offender.

To make this control more effective, Executive Decree No. 09-276 of August 30, 2009, relating to the national register of urban planning acts and related offenses, as well as the procedures for its maintenance, was adopted.

In application of the provisions of Law No. 08-15 of July 20, 2008 (as amended), this decree sets the procedures for maintaining the national register of urban planning acts and related offenses.

By "urban planning act," it is meant the urban planning certificate, land division certificate, subdivision permit, demolition permit, building permit, building permit for regularization, completion permit, completion permit for regularization, certificate of conformity, the date of issuance, and the authority that issued them, the identification of the beneficiary and their address, the validity period of the act, the amending act and the related deadline. Additionally, it includes administrative decisions and those made by the competent courts regarding urban planning offenses. The information contained in this file is confidential.

- **Protection and preservation of state lands**

Algerian state adopted Law No. 23-18 of November 28, 2023, relating to the protection and preservation of state lands. This law incorporates part of the provisions of Law No. 04-05, specifically concerning the prohibition of unauthorized constructions, and provides reliable solutions to address and, above all, penalize illegal occupation of state lands. Under this law, local cells have been established to detect cases of unlawful actions and illegal constructions on state lands, inform the relevant authorities, and initiate any proposals aimed at protecting and preserving state lands. Appeals regarding demolition decisions can now suspend the execution of the demolition decision until a judgment is made.

From now on, the individuals authorized to observe offenses related to illegal occupations are expanded to:

- Urban planning police.
- Officers and agents of the judicial police under the forestry administration.
- Domain inspectors.
- Agricultural administration agents.
- Environmental inspectors.
- Tourism inspectors.
- Inspectors and agents of cultural heritage protection.
- Water police agents.

The violation of the provisions of the aforementioned law is punishable by imprisonment ranging from 6 months to 15 years and a fine of 50,000 DA to 1,500,000 DA.

5. Absence or non-compliance with building permit requirements

Under Article 113 of the 2017 Finance Law, constructions that have a building permit and are either completed or under construction but not in compliance with the conditions of the issued permit may be regularized by adhering to:

- Neighboring rights in terms of placement and openings.
- Construction and safety standards.
- Completion deadlines for the work set by the modified building permit for regularization, granted after the approval of the commission established to rule on regularization requests.

The regularization is established through the payment of a fine ranging from 20% to 50% of the value of the property, depending on the nature of the offense. This provision has been in effect since January 1, 2018.

6. Access to the private domain of the State

Access to the private domain of the State is governed by the new law No. 23-17 of November 15, 2023 (hereinafter referred to as the "Law"), which outlines the conditions and procedures for granting land within the private domain of the State intended for investment project development.

The Law in question established the concession as the sole method of acquisition, abrogating any other texts contrary to its provisions, notably those contained in Law No. 02-08 of May 8, 2002, relating to the conditions for the creation of new towns and their development, Law No. 03-01 of February 17, 2003, relating to sustainable tourism development, and Law No. 03-03 of February 17, 2003, relating to expansion areas and tourist sites. Without prejudice to the provisions of Article 17 of the Law, real estate for which concession deeds have been established up to the date of its publication will continue to be governed by the provisions of Order No. 08-04 of September 1, 2008, as amended and supplemented.

The Law applies to economic land within the private domain of the State, including land developed in various zones (industrial, activity, new towns, expansion areas, tourist sites, technological parks, etc.), as well as residual and surplus real estate assets from public enterprises.

Economic land must belong to the private domain of the State, not be designated or in the process of being designated and be located in urbanized areas or areas planned for urbanization, except for specific projects.

The concession, which can be converted into a transfer, is granted for a renewable period of 33 years for investment projects, except for land intended for commercial real estate development, for which the conditions and terms of concession are defined by the applicable legislation. Economic land belonging to the private domain of the State, allocated to investors, is granted by the AAPI through a concession, according to the negotiated formula convertible into transfer, and this is done through its one-stop-shop, by delegation from the State.

Subject to compliance with the applicable laws, any entity, whether a natural or legal person, of Algerian or foreign nationality, whether residing or not according to the investment law, and wishing to benefit from the provisions of this Law, must submit its application through the investor's digital platform managed by the AAPI.

The economic land is granted by the Algerian Agency for Investment Promotion, by delegation from the State, through the one-stop shop for the benefit of investors via a negotiated concession convertible into a sale, in accordance with a standard specifications document set by regulation. This document includes general administrative clauses and specific clauses that take into account strategic directions and their impact on economic and social development.

The concession is granted by a decision of the AAPI, after the exhaustion of the appeal periods provided by the investment law. It is granted in exchange for the payment, by the concessionaire, of an annual rental fee, starting from the date the investment begins its operations, as duly acknowledged by the AAPI.

The concessionaire is entitled to a building permit. Additionally, the concession allows them to establish a mortgage in favor of credit institutions, affecting the real estate right resulting from the concession as well as the buildings to be constructed on the granted land, as collateral for loans granted exclusively for the financing of the pursued project.

Upon completion of the investment project in accordance with the terms of the specifications, the obtaining of the certificate of compliance and its commencement of operations, duly confirmed by the competent administrations and authorized bodies.

Thus, the conversion of the concession into a transfer is formalized by an act established, at the request of the AAPI, by the territorially competent land services. The timelines and modalities of application related to this will be defined by regulatory means. The following types of land are excluded from the provisions of the new law:

- Land located within mining perimeters.
- Agricultural or agricultural-purpose land within the state's private domain.
- Land located within the perimeters for the exploration and exploitation of hydrocarbons and the protection areas for electrical and gas installations.
- Land within the state's private domain intended for aquaculture activity zones.
- Land located within the perimeters of archaeological sites and historical monuments.
- Land intended for real estate promotion benefiting from state assistance.
- Land within the state's private domain designated for the realization of public investment projects.

7. Establishing property rights

A law No. 07-02 of February 27, 2007, instituting a procedure for the recognition of property rights and the issuance of property titles through land surveys, was published. The purpose of this law is to establish a procedure for recognizing property rights and issuing property titles through a land survey:

– To any property not subject to general cadastral operations, regardless of its legal nature.
– To properties whose owners do not hold property titles or for which property titles were issued before March 1, 1961, and no longer reflect the current land situation.

This procedure does not apply to properties of the national domain, including the lands previously referred to as "arch" and "wakf" properties.

The executive decree No. 08-147 of May 19, 2008, related to land survey operations and the issuance of property titles, reinforces the provisions of law No. 07-02 and facilitates the issuance of a land title to the owner lacking a property deed, allowing them to exercise their right to transfer or exploit the concerned property.

A land survey is addressed to the head of the land registry services of the territorially competent wilaya, with the aim of verifying the property rights and issuing a property title.

The land survey is conducted by a land surveyor, appointed by the head of the land registry services of the wilaya, from the body of domain inspectors. Upon receiving the request from the concerned party, the surveyor must, at the latest within one month of receiving the request, make a decision to open the land survey. A copy of this decision is sent to the relevant president of the APC for display at the municipal office of the location for a period of 15 days. After inspecting the site, the land surveyor draws up a provisional report, duly motivated, in which the conclusions of the survey are recorded, based on the statements made by the concerned party during the site visit.

After the verification of any potential disputes or objections, a copy of the provisional report is made known to the public by posting, for 30 days, at the office of the municipality where the property is located, no later than 8 days after its establishment. If no disputes or objections are raised, the land surveyor prepares a final report in which he records his conclusions on the conducted land survey. A boundary report is then drawn up by a licensed land surveyor and cosigned by the land surveyor.

If not, the land surveyor sets a conciliation session. At the end of this session, a report is drawn up. The person contesting can, within 2 months from the date of receipt of the non-conciliation report, under penalty of refusal of their request, initiate action before the competent court. The procedure is suspended until the judgment is rendered.

A final report is drawn up in which the results of the land survey are recorded. If, based on the analysis of the declarations, statements, and testimonies gathered, the documents presented, and the investigations carried out by the land surveyor, it is determined that the applicant holds a possession that allows them to acquire property rights through acquisitive prescription, in accordance with the provisions of the Civil Code, the ownership of the property subject to the land survey is recognized. This leads to a decision for the land registration of the property, which is transmitted for execution to the land registrar territorially competent, in the name of the determined owner.

Land registration consists of publishing the rights established during the land survey in the land register. Following the completion of this formality, a title of ownership is issued,

which is then handed over to the head of the land registration services of the wilaya for delivery to the applicant.

If the land survey does not result in a positive outcome, the head of the land registration services of the wilaya shall issue a reasoned decision, notified within a maximum of 6 months from the date of the request, rejecting the land registration.

This decision is, however, subject to appeal before the competent administrative jurisdiction within the legal deadlines.

In the case of a registration made based on false declarations or forged documents, the head of the land conservation services of the Wilaya files a complaint before the public prosecutor to initiate legal action.

CHAPTER 23

Automobile industry sector

1. Conditions and modalities for the exercise of vehicle construction activity

In accordance with Articles 24 and 25 of Law No. 04-08 of August 14, 2004, as amended and supplemented, regarding the conditions for the exercise of commercial activities, Executive Decree No. 22-384 of November 17, 2022, amended and supplemented by Executive Decree No. 24-159 of May 12, 2024, aims to establish the conditions and modalities for the vehicle construction activity.

The text clarifies the definitions, detailing the different categories of vehicles, such as passenger cars, light utility vehicles, industrial vehicles, tractors, buses, trucks, motorcycles, as well as the terms "Assembly, sub-assembly, and accessories" and "Integration rate."

The exercise of the vehicle manufacturing activity, as defined, is subject to the provisions of this Decree and requires adherence to the terms of the specifications.

For manufacturers of passenger vehicles and light commercial vehicles, in addition to the aforementioned conditions, the exercise of the activity requires an investment meeting the criteria defined by the legislation, a detailed letter of intent, and adherence to the national vehicle manufacturing strategy.

The decree imposes progressive integration rates, setting thresholds to be reached by the end of the 2nd, 3rd, and 5th year of activity. The methods for calculating these rates are specified by an interministerial decree.

Before making their investment, investors must register their project with the Algerian Investment Promotion Agency (AAPI) in order to carry out the activity of manufacturing

passenger vehicles and light utility vehicles, which includes, in particular, the participation of the brand owner in the share capital. They must then obtain prior authorization.

The prior authorization is issued within 30 days by the minister responsible for industry, and its validity is 24 months, extendable by 12 months upon a justified request.

Article 33 of the aforementioned Executive Decree No. 24-159 exempts the following operators from obtaining prior authorization:

- Operators holding approval in accordance with previous regulatory provisions.
- Operators who have already made their investments, whether they have started operations or not, before the publication of the aforementioned Executive Decree No. 24-159.
- Operators with ongoing investments before the publication of the aforementioned Executive Decree No. 24-159 and possessing the necessary infrastructure and equipment for vehicle manufacturing activities.

The effective exercise of vehicle manufacturing activities is subject to obtaining approval, with a dossier that includes a request, documents proving the existence of dedicated infrastructure and equipment, a partnership contract, and a copy of the prior authorization.

A technical committee is established to issue binding opinions on requests for prior authorization, approval, and technical evaluation decisions. An appeals commission is also set up to handle appeals submitted by investors and manufacturers.

A preferential tax regime is granted to vehicle manufacturers for raw materials and components, with specific advantages in the case of importing assemblies, sub-assemblies, and accessories.

The decree provides provisions for monitoring, formal notice in case of non-compliance, additional deadlines in case of failure to meet integration rate targets, and the establishment of a dedicated digital platform for managing the system.

1.1. Methods for calculating integration rates in vehicle manufacturing

The Interministerial Order of August 17, 2023, aims to define the rules for calculating integration rates in the field of vehicle manufacturing, pursuant to the provisions of Executive Decree No. 22-384 of November 17, 2022.

According to its provisions, the calculation of integration rates applies to vehicles subject to manufacturing activities. Key terms, such as "reference list" (a nominative list of a vehicle's components) and "reference table" (the designation of contributory rates as a percentage for each component), are precisely defined.

The integration rate is determined by aggregating the contributory rates of locally manufactured components integrated into vehicle construction. These components must comply with the reference tables specific to each type, power range, and/or model(s) of vehicle. Additionally, they must be produced locally by the manufacturer or their subcontractors, in accordance with the regulations in force.

The contributory rate of a component is defined as the ratio between its individual cost and the total cost of the vehicle at the factory output. The reference lists, organized by types, power ranges, and/or vehicle models, are established in detail.

Finally, the decree provides that the reference tables specific to each type, power range, and/or vehicle model will be set by orders from the minister in charge of industry. Thus, this decree creates a detailed framework governing the calculation of integration rates, promoting the local manufacturing of components in the vehicle construction sector.

2. Conditions and modalities for exercising the activity of new vehicle dealership

The Executive Decree No. 22-383 of November 17, 2022, amended and supplemented by Executive Decree No. 24-132 of April 9, 2024, establishes the conditions and modalities governing the exercise of the new vehicle dealership activity. In accordance with Articles 24 and 25 of Law No. 04-08 of August 14, 2004, this text aims to define the rules surrounding this commercial activity.

Under the terms of this decree, the term "vehicle" encompasses any land transportation means, motorized or not, that operates on roads. A "new vehicle" is defined as one that has not been previously registered, with a duration between the manufacturing date and entry into the national territory not exceeding 12 months, and a specific mileage according to the vehicle category.

The different categories of vehicles, such as passenger cars, light commercial vehicles, industrial vehicles, motorcycles, and rolling stock, are clearly defined. Additionally, the decree specifies the types of contracts, such as the concession, binding the granting manufacturer to the dealer, as well as the activity of authorized agent.

Access to the activity of new vehicle dealership is conditioned by the creation of an Algerian law company. New vehicle dealers are subject to the conclusion of a concession contract and must obtain prior authorization issued by the minister in charge of industry, as well as comply with the specifications annexed to the decree in question. The prior authorization is valid for 12 months and can be contested before an appeals commission. The actual exercise of the activity is subject to a definitive approval valid for five (5) years.

It should be clarified that a company fully owned by foreigners can only engage in the activity of vehicle dealership by complying with the local partnership rule, which requires a minimum participation of 51% by a local partner.

The approval for the actual exercise of the activity is subject to a complete file containing various supporting documents. The criteria for obtaining the approval include compliance with the requirements of the specifications, the quality of storage infrastructure, the competence of the staff, and other specified criteria.

The decree also provides mechanisms for control and sanctions in case of non-compliance with the provisions. An interministerial technical committee is established to review authorization and approval requests, while an appeals commission is set up to handle any potential appeals.

The text emphasizes the importance for dealers to comply with environmental standards when importing new vehicles. Furthermore, strict conditions are outlined regarding import procedures, vehicle invoicing, and payment methods.

Finally, the Decree abrogates the previous provisions governing the activity of new vehicle dealers, as set out in Executive Decree No. 20-227 of August 19, 2020, as amended and supplemented.

Index of acronyms & abbreviations

AAPI	Algerian Agency for Investment Promotion
ADE	Algerian waters
ANAE	National Agency for the Self-Employed
ANPDP	National Authority for the Protection of Personal Data
APC	Municipal People's Assembly
APN	National People's Assembly
APW	Wilaya People's Assembly
ARPCE	Authority for the Regulation of Post and Electronic Communications
AT	Algérie télécom
BOAL	Official Bulletin of Legal Announcements
CACOBATPH	National Fund for Paid Leave and Unemployment Due to Weather Conditions in the Construction, Public Works, and Hydraulics Sectors
CASNOS	National Social Security Fund for Self-Employed Workers
CCR	Central Reinsurance Company
CEDAC	Foreign account in convertible Algerian dinars
CIP	Advisors in participatory investment
CNAS	National Social Insurance Fund for Wage Earners
CNRC	National Center of the Trade Register
CREG	Electricity and Gas Regulatory Commission
DAP	Provisional Additional Duty
DAPS	Provisional Safeguard Additional Duty
DDED	Detailed Estimative Descriptive Quote
DPGF	Breakdown of the Global and Lump Sum Price
ENTV	Algerian Television Company
EPIC	Public Establishment with Industrial and Commercial Character
FNPOS	Social Housing Fund
GRTE	Algerian Companies for the Management of the Electricity Network
GRTG	Algerian Companies for the Management of the Gas Transport Net-work
GAFTA	Greater Arab Free Trade Area
IFU	Unified Flat Tax
INAPI	National Algerian Institute of Industrial Property
J.O.	Official newspaper
NAE	Nomenclature of Economic Activities
NIF	Tax Identification Number
OEA	Customs Accredited Economic Operator
ONDA	National Office of Copyright and Related Rights
ONS	National Office of Statistics
OPCVM	Collective Investment Schemes in Transferable Securities
OTA	Orascom Télécom Algérie
PSP	Payment Service Providers
RBE	Register of Beneficial Owners
RCE	Electronic Commerce Register
SDPU	Breakdown of Unit Prices
SEAAL	Algiers Water and Sanitation Company
SNMG	National Minimum Guaranteed Salary
TIC	Internal Consumption Tax
TOL	Occupancy rate of the housing
TPP	Tax on petroleum products
UAR	Union des assureurs et ré-assureurs
WTA	Wataniya télécom Algérie "Ooredoo"

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ISBN: 978-9947-807-43-9

9 789947 807439

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