

BODIES IN CHARGE OF FOLLOWING UP INVESTMENT UNDER LAW NO.22-18 ON INVESTMENT

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Abstract:

The system of benefits presents both advantages and challenges. It alleviates financial stress for investors while imposing strict obligations. Law No. 22-18 on investment and Executive Decree No. 22-303 emphasize adherence to these obligations. These regulations aim to enhance investment oversight following the registration phase. The Algerian Agency for the Promotion of Investment has been tasked with overseeing this process. This agency collaborates with various administrative bodies, including the Tax and Customs Administration, State Property Administration, and National Fund for Social Insurance for Waged Workers. Their collective efforts are crucial for effective investment monitoring in Algeria. The study highlights the importance of compliance in maximizing investment benefits.

Key words: Investment, Benefits, Agency, Administrative, Bodies.

INTRODUCTION

The increasing interest of various countries in investment due to its effective role in achieving economic development and its contribution to bridging gaps and covering the demands of society in developing countries, especially those seeking progress and prosperity, as they are basic demands with the failure of countries to achieve them by relying on their internal sources, and this is what prompted them to consecrate economic freedom and adopt a market economy system.

As one of the developing countries, Algeria has paid attention to investments, especially foreign ones. It has worked to provide a suitable climate for investment in order to convince investors to take the investment decision within its territory by granting them all the necessary legal guarantees and protection, as well as facilitating administrative procedures for the establishment of investment projects in safe and stable conditions, in addition to granting them tax incentives. However, in order to preserve the economic interests of the Algerian state, the Algerian legislator was keen to control investments, which benefited from the various advantages stipulated in Law No. 22-18 on Investment, by devoting a procedure that is considered a manifestation of investment control represented in the follow-up of investments.

The follow-up process is a mechanism by which the Algerian legislator ensures the monitoring of the progress of investment projects benefiting from the benefits and the extent to which investors respect the obligations and duties they have undertaken in exchange for granting them the benefits. In order to ensure effective follow-up of investments, especially foreign ones, it was issued by Executive Decree No. 22-303 regarding the follow-up of investments and the measures to be taken in the event of non-compliance with¹ the duties and obligations written. It is clear from its provisions that the Algerian legislator assigned the task of follow-up to a group of administrative bodies. From here we can raise the following problem: What role do these bodies play in following up investment in Algeria.

¹Executive Decree No. 22-303, dated September 8, 2022, concerning the follow-up of investments and the measures to be taken in case of non-compliance with the duties and obligations written, JRJJ, No. 60, issued on September 18, 2022.

To answer this problem, the analytical approach was relied on by analyzing some of the texts of Law No. 22-18 related to investment and Executive ²Decree No. 22-303 related to the follow-up of investments and the measures to be taken in the event of non-compliance with the duties and obligations written, relying on two axes. In the first axis, we dealt with the Algerian Agency for the Promotion of Investment as a main body to follow up investments, while in the second axis, we dealt with the bodies participating in the follow-up process alongside the agency.

1. The concept of the Algerian Agency for the Promotion of Investment

To define the concept of the Algerian Investment Promotion Agency, we should clarify **what it means (first)**, and then address its **role in following up on the investment (second)**.

1.1 What is meant by the Algerian Agency for the Promotion of Investment

The term "agency" was used by the Algerian legislator for the first time in Legislative Decree No. 93-12 on the promotion of investment (canceled), where it adopted the name "Agency for the Promotion³, Support and Follow-up of Investments A.P.S.I.". With the issuance of Order No. 01-03 on the development of investment (partially canceled), the same term was retained, but with another name, the National Agency for Investment Development "A.N.D.I", which was placed under the guardianship of the Prime Minister⁴, and was defined as a public institution enjoying moral personality and financial independence.⁵

The National Agency for Investment Development is defined in Article 1 of Executive Decree No. 06-356, which contains the powers of the National Agency for Investment Development (canceled), as follows: «The National Agency for Investment Development, established under Article 6 of Order No. 01-03..., is a public institution of an administrative nature that enjoys legal personality and financial independence, and is called in the body of the text " the Agency". The power of attorney shall be placed under the guardianship of the Minister in charge of Investment Promotion. »

It is clear from this text that the Algerian legislator specified the legal nature of the National Agency for Investment Development, as it considered it a public institution of an administrative nature and not of an economic nature, and also made it subordinate to the Ministry of Industry, as it placed it under the guardianship of the minister in charge of investment.

With the promulgation of Law No. 16-09 on the promotion of investment (partially canceled), and by examining the provisions of Article 26 of it, we find that it preserved the name of the National Agency for Investment Development, as it defined it as a public administrative institution that enjoys moral personality and financial independence, tasked with coordinating with the departments and bodies concerned with a range of tasks, including registering investments, promoting investments in Algeria and promoting them abroad, promoting regional opportunities and potentials.... etc.

With the promulgation of Law No. 22-18 on investment, and extrapolating from the provisions of Articles 16 and 18 of it, we find that the Algerian legislator adopted another name, the Algerian Investment Promotion Agency, through which it aims to give this body an Algerian status at the international level.⁶

²Law No. 22-18, dated July 24, 2022, relating to investment, J.R.J., No. 50, issued on July 28, 2022.

³ Article 7 Legislative Decree No. 93-12, dated October 5, 1993, relating to the promotion of investment, JRJJ, No. 64, issued on October 10, 1993, (repealed).

⁴ Article 6 of Order No. 01-03, dated August 20, 2001, relating to the development of investment, J.R.G.J., No. 47, issued on August 22, 2001, (partially repealed).

⁵ Article 21 of Order No. 01-03, relating to investment development, (partially repealed).

⁶ Satisfied Peers, "Investment Guarantees within the Framework of Law No. 22-18," *Academic Journal of Legal and Political Research*, Volume 7, No. 01, Faculty of Law and Political Science, Ammar Thaliji University, Laghout, 2023, p. 3422.

As for the issuance of Executive Decree No. 22-298 specifying the organization and functioning of the Algerian Investment Promotion Agency⁷, and our examination of the provisions of the second paragraph of Article 2 thereof, we find that the Algerian legislator defined the Algerian Investment Promotion Agency as follows: "The Agency is a public institution of an administrative nature, enjoying moral personality and financial independence and placed under the guardianship of the Prime Minister."

It is clear from this paragraph that the Algerian legislator adopted almost the same definitions contained in Executive Decree No. 06-356 containing the powers of the National Agency for Investment Development (canceled), Order No. 01-03 related to investment development (partially canceled), and Law No. 16-09 related to investment promotion (partially canceled), with a difference in the guardianship to which the agency is subject. It was previously subordinate to the Ministry of Industry and subject to the guardianship of the minister in charge of investment, while under Executive Decree No. 22-298 specific to the organization and functioning of the Algerian Agency for Investment Promotion, it is subject to the guardianship of the Prime Minister.

The determination of the legal form of the Algerian Agency for the Promotion of Investment as a public institution of an administrative nature was stipulated under Law No. 16-09 on the promotion of investment (partially repealed) and Order No. 01-03 on the development of investment (partially repealed) by a legislative text, unlike Law No. 22-18 on investment, where the legal form of the Algerian Agency for the Promotion of Investment was determined by a regulatory text, namely Executive Decree No. 22-298 specifying the organization and functioning of the Algerian Agency for the Promotion of Investment, which is illogical, because the origin in determining the legal form of any body or institution should not be under a regulatory text, but should be under a constitutional or legislative text, and therefore the idea of determining the legal form of the Algerian Agency for the Promotion of Investment was not understood how it was referred to the regulation⁸.

1.2 The role of the Algerian Agency for the Promotion of Investment in the follow-up of investment

The Algerian Investment Promotion Agency is considered the most effective administrative body in following up investment in Algeria. With reference to the provisions of Article 4 of Executive Decree No. 22-298, which regulates the Algerian Investment Promotion Agency and its functioning, in its sixth paragraph, we find that the Agency is tasked with liaising with the concerned departments and bodies to ensure that the commitments made by investors are respected. In addition, it handles investor petitions and complaints. It also develops a monitoring, listening and follow-up service for registered investments.

To determine how to follow up on investments and the measures to be taken in the event of non-compliance with the written duties and obligations, Executive Decree No. 22-303 on the follow-up of investments and the measures to be taken in the event of non-compliance with the written duties and obligations was issued, which details the follow-up carried out by the Algerian Agency for Investment Promotion along with a group of other administrative bodies to ensure respect for the duties and obligations subscribed by investors. Referring to the provisions of the second paragraph of Article 2 thereof, we find that the Algerian Agency for Investment Promotion follows up on the embodiment of projects and collects statistical information on the extent of their progress

The Algerian Agency for Investment Promotion shall follow up the investment throughout the period of the advantages of completion and exploitation⁹, on the basis of the information provided by the

Executive 7 Decree No. 22-298, dated September 8, 2022, establishing the organization and functioning of the Algerian Investment Promotion Agency, C.R.G.G., No. 60, issued on September 18, 2022.

⁸ Erzil, The Priestess, "A Look at the New Investment Law of 2022," Critical Journal of Law and Political Science, Volume 17, Number 02, 2022, p. 74.

⁹ Article 3/1 of Executive Decree No. 22-303, relating to the follow-up of investments and the measures to be taken in the event of non-compliance with the duties and obligations written.

investor, 10 which is obligated to provide all the information requested by the administration necessary to follow up and evaluate¹¹ the consumption of the benefits granted. The agency shall also provide a disclosure of the progress of its investment project through a form submitted by the agency prepared in accordance with the form specified in Annex I of Executive Decree No. 22-303 on the follow-up of investments and the measures to be taken in the event of non-compliance with the written duties and obligations entitled "Disclosure of the progress of the investment project"¹².

The disclosure of the progress of the investment project means the administrative document that shows the relationship between the investor and the Algerian Investment Promotion Agency, according to which the latter can know the level of progress of the investment project, and is also considered evidence in the hands of the investor who may invoke it against the Algerian Investment Promotion Agency¹³.

By looking at the investment project progress detection form, we find that it contains a set of mandatory data to be filled by the investor, including what relates to the investor such as his name, commercial address, registration number in the commercial register, including what relates to the investment project such as the type of investment, the level of progress of the project and other mandatory data.

The tax authorities shall undertake the task of signing and marking the statement of progress of the investment project and it shall be deposited by the investor at the level of the Algerian Investment Promotion Agency within 30 days following the date of its signature by the qualified tax authorities¹⁴.

The single window at the level of the Agency annually conducts an approach between the statements of the progress of the investment projects deposited and the investment cards registered at the level of the Agency in order to identify the lagging investors who have not deposited the annual statement of the progress of¹⁵ their investment projects. They are notified by the Agency by all means within a period of 8 days from the date of inspection of the failure to deposit the statement of the progress of the investment project. In this case¹⁶, they must send the documents justifying their failure to deposit the statement of the progress of the project to the Agency within a period of 15 days from the date of notification of the warning. The¹⁷ absence of justification during this period leads to the cancellation of the investment registration certificate¹⁸, which is embodied in a decision to withdraw the benefits prepared by the Agency and a copy of it is sent to the concerned departments¹⁹.

10 Article 4/1 of Executive Decree No. 22-303, relating to the follow-up of investments and the measures to be taken in the event of non-compliance with the duties and obligations written.

11 Article 4/2 of Executive Decree No. 22-303, relating to the follow-up of investments and the measures to be taken in the event of non-compliance with the duties and obligations written.

12 Article 4/3 of Executive Decree No. 22-303, relating to the follow-up of investments and the measures to be taken in the event of non-compliance with the duties and obligations written.

13 Zerrougui Nawal, Directive Treatment of Investment in Algeria, Dissertation submitted for a doctorate in law, Law Branch, Specialization of Public Law, Faculty of Law and Political Science, Abdel Rahman Meira University, Bejaia, 2022, pp.283-284.

14 Article 4/4 of Executive Decree No. 22-303, relating to the follow-up of investments and the measures to be taken in the event of non-compliance with the duties and obligations written.

15 Article 5/1 of Executive Decree No. 22-303, relating to the follow-up of investments and the measures to be taken in the event of non-compliance with the duties and obligations written.

16 Article 5/2 of Executive Decree No. 22-303, relating to the follow-up of investments and the measures to be taken in the event of non-compliance with the duties and obligations written.

17 Article 5/3 of Executive Decree No. 22-303, relating to the follow-up of investments and the measures to be taken in the event of non-compliance with the duties and obligations written.

18 Article 7 of Executive Decree No. 22-303, relating to the follow-up of investments and the measures to be taken in the event of non-compliance with the duties and obligations subscribed.

19 Article 8 of Executive Decree No. 22-303, relating to the follow-up of investments and the measures to be taken in the event of non-compliance with the duties and obligations subscribed.

To take the necessary measures due to the withdrawal of benefits²⁰, noting that the withdrawal of exploitation benefits leads to the payment of all benefits consumed by the investor in addition to other penalties stipulated in the applicable legislation²¹

It should be noted that the decision to withdraw the benefits can be canceled according to a decision by the Algerian Agency for Investment Promotion, based on the results of the appeal initiated by the investor at its level or at the level of the National Higher Committee for Investment Appeals or before the competent judicial bodies²², knowing that the decision to cancel is communicated to the concerned administrative authorities to²³ take the necessary measures as a result of canceling the decision to withdraw the benefits.

Extrapolating the provisions of Article 12 of Executive Decree No. 22-303 regarding the follow-up of investments and the measures to be taken in the event of non-compliance with the written duties and obligations, we find that the notifications and summons sent by the agency to the investor in accordance with the procedures specified in the legislation in force. If it returns to the sender with the words "wrong address", "unknown at the aforementioned address" or "refusal to withdraw the transmission", they explain the bad faith of the addressee and his failure to take them into account. Therefore, they do not constitute an obstacle to taking the procedures for withdrawing benefits unless the investor proves his good faith.

The Algerian Investment Promotion Agency seeks, through the follow-up of investment, to achieve two purposes. The first is to provide assistance to investors, especially foreigners, to benefit from the advantages granted to them by the registration certificate, on the one hand, so that they can face the difficulties that stand in their way during the completion of their investment projects or while exploiting them²⁴, on the other hand. The second is to exercise effective control over investments, especially foreign ones, to ensure that they are properly completed, on the one hand, and to verify the extent to which investors implement the obligations they have undertaken on the other hand²⁵.

2. The bodies participating in the follow-up process along with the Algerian Agency for Investment Promotion

The process of following up investments, especially foreign investments, is not limited to the Algerian Investment Promotion Agency, but there are, in addition to the latter, other departments and bodies concerned with this, stipulated by the Algerian legislator in Article 2 in its second paragraph of Executive Decree No. 22-303 regarding the follow-up of investments and the measures to be taken in the event of non-compliance with the duties and obligations subscribed, represented by the Tax and Customs Department (first), the National Property Department (second), and the National Fund for Social Insurance for Waged Workers (third).

2.1 Tax and Customs Administration

The Tax and Customs Administration undertakes the task of follow-up by ensuring the extent to which investors respect the duties and obligations subscribed within the framework of the benefits

20 Belharth Lindh, "Emphasizing the Follow-up of Investment Projects," National Forum on "Legal Mechanisms for the Revival of the Algerian Economy under Constitutional Reform," Faculty of Law and Political Science, Akly Muhannad Olhaj University, Al-Buwayrah, held on April 29, 2018, p. 08.

21 Article 09 of Executive Decree No. 22-303, relating to the follow-up of investments and the measures to be taken in the event of non-compliance with the duties and obligations written.

22 Article 11/1 of Executive Decree No. 22-303, relating to the follow-up of investments and the measures to be taken in the event of non-compliance with the duties and obligations written.

23 Article 11/2 of Executive Decree No. 22-303, relating to the follow-up of investments and the measures to be taken in the event of non-compliance with the duties and obligations written.

24 Belharth Linda and Wali Nadia, "The New Role of the National Agency for Investment Development in Activating Foreign Investment Policy in Algeria," Algerian Journal of Legal and Political Sciences, Volume 55, Issue 04, Faculty of Law, Ben Youssef Ben Kheda University, Algeria, 2018, p. 357.

25 Ibid., pp. 357-358.

granted²⁶, as this follow-up takes place during the period of depreciation of goods acquired with benefits as specified in the legislation in force.²⁷

2.2 National Property Department

The National Property Department undertakes the follow-up tasks by ensuring the preservation of the destination of the real estate base granted by the agencies in charge of the property, in order to complete the investment in accordance with the items stipulated in the book of burdens²⁸ and the concession contract. This follow-up takes place during the concession period²⁹ specified for thirty-three (33) renewable years.³⁰

In this context, we refer to the definition of both the concession contract and the book of burdens, as the concession contract is a legal means used by the Algerian legislator as a method of granting economic property^{*}, with the aim of completing investment projects and attracting investors³¹, especially foreigners. It is an administrative contract prepared at the request of the Algerian Agency for the Promotion of Investment by the State Property Interests Regionally Competent on the basis of the decision to grant the concession issued by the Agency attached to the book of burdens and signed by the investor³², it is granted in the form of consensual convertible into a waiver³³, after it was previously granted on the basis of consensual formula as the only method³⁴.

The Algerian legislator's dedication of the consensual formula convertible into a waiver as a method of granting the concession contract would stimulate the attraction of foreign investors to invest in Algeria.

It is worth noting in this context that the concession that can be converted into a waiver is granted by a decision of the Algerian Agency for the Promotion of Investment, after exhausting the appeal

²⁶ Article 2/2 of Executive Decree No. 22-303, relating to the follow-up of investments and the measures to be taken in the event of non-compliance with the duties and obligations written.

²⁷ Article 3 of Executive Decree No. 22-303, related to the follow-up of investments and the measures to be taken in the event of non-compliance with the duties and obligations written.

²⁸ Article 2/2 of Executive Decree No. 22-303, relating to the follow-up of investments and the measures to be taken in the event of non-compliance with the duties and obligations written.

²⁹ Article 3 of Executive Decree No. 22-303, related to the follow-up of investments and the measures to be taken in the event of non-compliance with the duties and obligations written.

³⁰ Article 14/3 of Law No. 23-17, dated November 15, 2023, specifying the conditions and modalities for granting the economic property belonging to the private property of the State directed to the completion of investment projects, JRJJ, No. 73, issued on November 26, 2023.

^{*} The economic property is " any real estate property belonging to the private property of the state and/or any other private property acquired by the Algerian Agency for the Promotion of Investment for the benefit of the state, capable of receiving an investment project within the meaning of the law related to investment." Consider this: Article 4/First Term of Law No. 23-17, determines the conditions and modalities for granting economic real estate belonging to the private property of the state directed to the completion of investment projects.

³¹ Laila Bouchena, "The Industrial Property Concession Contract and its Impact on Investment Promotion (between Law and Reality)," *Academic Journal of Legal Research*, Volume 13, Number 2, Faculty of Law and Political Science, Abdul Rahman Meera University, Bejaia, 2022, p. 468.

³² Article 14/7 of Law No. 23-17, dated November 15, 2023, specifying the conditions and modalities for granting the economic property belonging to the private property of the State directed to the completion of investment projects, JRJJ, No. 73, issued on November 26, 2023.

³³ Article 14/1 of Law No. 23-17, determines the conditions and methods of granting economic real estate belonging to the private property of the state directed to the completion of investment projects.

³⁴ Article 37 of Law No. 20-07, dated June 4, 2020, includes the Supplementary Finance Law of 2020, JRJJ, No. 33, issued on June 4, 2020.

deadlines specified in the law on investment³⁵, while it was previously granted by the governor based on the proposal 36 of specific authorities:

- The committee to help determine the location, promote investments, and control real estate on land belonging to the private property of the state, the remaining real estate assets of dissolved public institutions, and the surplus assets of public economic institutions, as well as land belonging to industrial zones and activity areas.³⁷

- The authority in charge of managing the new city on the lands located within the vicinity of a new city.³⁸

It should be noted that the current role of the governor is to determine the investments that can obtain the economic property in consultation with the agency, taking into account the specificity of the activities developed or to be developed at the national and local levels within the framework of the objectives set.³⁹

Limiting the authority to issue a concession decision to the Algerian Investment Promotion Agency would simplify the procedures for the foreign investor to obtain the concession, save him the trouble of moving around, reduce expenses and gain time. Limiting the authority to grant the concession decision to a single body avoids the foreign investor from falling into the problems of multiple and conflicting decisions.

As for the book of burdens, it is defined as: "An official document developed by the contracting administration of its own volition, according to which it determines all the conditions related to the rules of competition in its various aspects, the conditions of participation in it and how to choose the contractor with it, and the administration when it prepares the book of conditions in each deal that exploits its qualified internal expertise, and recruits all its relevant frameworks in order to reach the preparation of the book of conditions that achieves⁴⁰ the set objectives." It is also defined as a written and prepared administrative document that contains the conditions for concluding administrative contracts, the conditions for holding them, as well as the conditions for their implementation⁴¹.

³⁵Article 14/2 of Law No. 23-17, determines the conditions and methods of granting economic real estate belonging to the private property of the state directed to the completion of investment projects.

³⁶Article 5/1 of Order No. 08-04, dated September 1, 2008, specifying the terms and conditions for granting a concession on land belonging to the private property of the State and directed to the completion of investment projects, JRJG, No. 49, issued on September 3, 2008, (repealed), after being amended by Article 15 of Law No. 11-11, including the Supplementary Finance Law of 2011, dated July 18, 2011, JRJG, No. 40, issued on July 20, 2011.

³⁷Article 5/2 of Order No. 08-04, specifying the terms and conditions for granting a concession on land belonging to the private property of the State and directed to the completion of investment projects (canceled), as amended by Article 15 of Law No. 11-11, including the Supplementary Finance Law of 2011.

³⁸Article 5/3 of Order No. 08-04, specifying the terms and conditions for granting a concession on land belonging to the private property of the State and directed to the completion of investment projects (canceled), as amended by Article 15 of Law No. 11-11, including the Supplementary Finance Law of 2011.

³⁹Article 9 of Law No. 23-17, determines the conditions and modalities for granting economic real estate belonging to the private property of the State directed to the completion of investment projects.

⁴⁰Ammar Boudiaf, *Explanation of Organizing Public Deals*, 3rd Edition, Dar Jusoor for Publishing and Distribution, Algeria, 2011, p. 142.

⁴¹Ammar Awabdi, *Administrative Law*, Volume 2, 3rd Edition, Office of University Publications, Algeria, 2005, p. 214.

The burden book contains general and special administrative items that take into account the strategic directions and their impact in the field of economic and social development⁴², which the foreign investor must take into account, especially:

- Not to change the destination or use all or part of the property for purposes other than those mentioned in the burden book except under a license by the Algerian Agency for Investment Promotion.
- Completion of the investment project on time.
- Payment of the amount of annual rental royalties due and management burdens.
- Strategic directions and their impact on economic and social development.
- The Algerian Investment Promotion Agency unilaterally terminates the concession contract in the event that the foreign investor breaches the terms of the burden book.
- Maintaining the economic destination of the granted property after the completion of the project⁴³.

It is clear from the items included in the book of burdens that the latter is a control mechanism used by the National Property Department to monitor the extent to which investors, especially foreigners, respect the obligations and duties they have undertaken.

2.3. The National Fund for Social Insurance for Waged Workers

The National Fund for Social Insurance for Waged Workers shall proceed to follow up the investments by verifying that the investor who benefited from the exploitation benefits period has kept at least the number of job positions at the same level that he was allowed to benefit from that⁴⁴ period. The Fund shall exercise this follow-up during each period to benefit from the exploitation benefits⁴⁵ ranging from three (3) to five (5) years from the date of commencement of exploitation for investments that are capable of benefiting from the advantages of the sectorial system⁴⁶, and from five (5) to ten (10) years from the date of commencement of exploitation for investments that are capable of benefiting from the advantages of the area system⁴⁷ and investments that are capable of benefiting from the advantages of the structured investment system.⁴⁸

In this context, it is noted that the Algerian legislator, under Article 2, paragraph (d) of Executive Decree No. 22-303 on the follow-up of investments and the measures to be taken in the event of non-compliance with the duties and obligations underwritten, did not specify the relationship between the number of jobs established and the duration of the benefits of exploitation, contrary to Article 2, paragraph (d) of Executive Decree No. 17-104 on the follow-up of investments and the penalties applied in the event of non-compliance with the duties and obligations underwritten, as the legislator indicated this relationship, by making the investor who creates more than 100 jobs benefit from raising the period of exploitation benefits to five (5) years, noting that the Algerian legislator referred to the number of jobs when determining the criteria for qualifying investments that can benefit from the structured investment system.⁴⁹

⁴²Article 14/1 of Law No. 23-17, determines the conditions and methods of granting economic real estate belonging to the private property of the state directed to the completion of investment projects.

⁴³ Article 15 of Law No. 23-17, determines the conditions and modalities for granting economic real estate belonging to the private property of the State directed to the completion of investment projects.

⁴⁴ Article 2/d of Executive Decree 22-303, related to the follow-up of investments and the measures to be taken in the event of non-compliance with the duties and obligations written.

⁴⁵ Article 3/4 of Executive Decree 22-303, related to the follow-up of investments and the measures to be taken in the event of non-compliance with the duties and obligations written.

⁴⁶ Article 27 /second point of Law No. 22-18, related to investment.

⁴⁷ Article 29/second point of Law No. 22-18, related to investment.

⁴⁸ Article 31/second point of Law No. 22-18, related to investment.

These criteria are ⁴⁹ as follows: The number of direct jobs shall be equal to or greater than five hundred (500) jobs, and the investment amount shall be equal to or greater than ten billion dinars. See: Article 16 of Executive Decree No. 22-302, related to the criteria for qualifying structured investments and how to benefit from the advantages of exploitation and evaluation networks.

It should be noted that in the event of a change in the number of employees, the foreign investor is obliged to submit to the agency a certificate of change in the number of employees, prepared by the National Fund for Social Insurance for Waged Workers in accordance with the form specified in Annex II of Executive Decree No. 22-303 related to the follow-up of investments and the measures to be taken in the event of non-respect of the duties and obligations written⁵⁰, noting that the Algerian legislator did not specify the date of submission of this certificate with the Algerian Agency for the Promotion of Investment, contrary to what is stated in Article 9 in its second paragraph of Executive Decree No. 17-105 on the modalities of applying the additional benefits of exploitation granted to investments established for more than (100) jobs, where the investor legislator is obliged to submit a certificate of change in the number of users to the Center for the management of benefits or tax interests affiliated to it, before January 15 of each year.

A certificate of change in the number of employees is an effective mechanism under which the National Fund for Social Insurance for Waged Workers exercises the task of following up investments. This certificate contains a set of data that the investor is obligated to fill, including what relates to the investor, the registration number of the National Fund for Social Insurance, the commercial registration number, the tax identification number, including what relates to the type of investment registered with the single window for major projects and foreign investments, the registration number, date and activity related to it, in addition to data related to the minutes of the preview of entering into exploitation. It also includes a table containing the number of new jobs, that is, those created in the period from the date of registration of the investment to the end of the minimum period of the exploitation phase, and the number of existing jobs, that is, those that were before the date of registration of the investment to be used only for investments of the type of expansion and/or rehabilitation.⁵¹

From the above, we conclude that the distribution of follow-up tasks among the various administrative bodies related to investment creates a kind of effective control over investment projects, to verify that the advantages granted are directed to achieve the purpose for which this was granted on the one hand, and to ensure that the foreign investor implements the obligations he has undertaken on the other hand.

CONCLUSION

From the above, we conclude that the Algerian legislator has paid great attention to the issue of following up investments throughout the period of validity of the benefits granted to investors, so that there is actual and real exploitation of investment projects and assistance to all investors throughout each stage of the investment project in order to overcome all obstacles that may prevent them from completing their projects on the one hand and on the other hand so that the state can exercise effective control over those investment projects in order to verify the extent of their completion and the implementation by investors of all their written obligations so that the process of granting benefits is not a means of squandering public funds and a method of tax evasion. The Algerian legislator is interested in the follow-up issue by assigning this task to a group of administrative bodies represented by the Algerian Agency for the Promotion of Investment as a main body supported by other bodies represented by the Tax and Customs Administration, the National Property Administration, and the National Fund for Social Insurance for Waged Workers.

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⁵⁰ Article 6/3 of Executive Decree 22-303, regarding the follow-up of investments and the measures to be taken in the event of non-compliance with the duties and obligations written.

⁵¹ Second Annex of Executive Decree No. 22-303, including the Form of Certificate of Change of User Census, dated September 8, 2022, C.R.J., No. 60, issued on September 18, 2022.

2. Law No. 20-07, dated June 4, 2020, containing the Supplementary Finance Law of 2020, JRJJ, No. 33, issued on June 4, 2020.
3. Law No. 22-18, dated July 24, 2022, relating to investment, J.R.J., No. 50, issued on July 28, 2022.
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