

**Administrative controls for settling disputes related to the
privileges granted to the investor, in virtue of the law of
investment N° 22-18**

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Abstract:

Investment legislation is the state's tool for encouraging investment through legal guarantees and financial incentives that contribute to creating a suitable climate for investors, in addition to the necessity of granting confidence and security to benefit from these privileges, by finding sufficient means to reduce disputes in the field of investment, which is what The legislator established it through Law 22-18 related to investment, as it stipulated the amicable settlement of disputes related to the privileges granted to the investor through simplified administrative procedures through which he can regain his right to benefit from the benefits without judicial intervention. Keywords: investment, investment advantages, disputes, amicable settlement, administrative settlement

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- INTRODUCTION

The algerian state is striving to achieve economic and sustainable development through its new policy in the field of improving the investment climate, by attracting foreign investors and encouraging the national investors. However, this policy is linked to the extent of the success of the incentives to attract the foreign investor to invest in Algeria, therefore the algerian legislator tried to correct the shortcomings witnessed in previous investment laws by the creating of a new law 18-22 on 24/07/2022 related to the investment ¹ that guarantee economic and development goals with social and sustainable ² dimensions.

The algerian legislator granted many of advantages to the investor in order to achieve these goals, some of them have been renewed as existing in previous laws and some have been introduced under this law, the legislator has maintained granting the investor a number of customs and tax exceptions or reducing them according to the case, whether in the stage of completion or in stage of exploitation, while this law came with new incentive systems according to what was stated in the text of the article 24 of Law N° 18-22, which states the following “ investments within the meaning of article of N° 4 of this law may benefit, upon request from the investor, from one of the incentive systems mentioned below “:

-Incentive system for priority sectors, which is called in the body of the text “sectors system” - Incentive system for areas that the state attaches a special importance, which is called in the body of the text “areas system”.

- Incentive system for investments of a structured nature, which is called in the body of the text “system of structured nature investments”.

The investor can benefit from these incentives systems mentioned after registration of his investment which is embodied in the immediate delivery of a certificate attached to a list of goods and

services that can be used to benefit from the benefits granted to the investor.

In order to benefit from the privileges, which he has the right to claim from the concerned departments and bodies, however before completion, investments must be subject to registration within the only competent windows mentioned in article 18 of this law, in order to benefit from the privileges stipulated in the provisions of this law³.

The algerian legislator entrusted the task of granting benefits to the Algerian investment promotion agency after the investor submitted the request to grant the benefits, once his investment was registered and after completing the procedures that must be taken in order to benefit from privileges, the Agency considers and responds to the request within the specified period and either accepts the granting of privileges or rejects the request.

The agency can refuse the investor request of benefiting from the privileges which are stipulated in investment law in the case that the investor or the investment itself does not meet the conditions stipulated in the law 18-22 related to the investment or conditions included in its regulatory texts.

The refusal may also take place during the exploitation stage after benefitting from the privileges at the completion stage, the extension of the period for benefiting from privileges is refused or the granting of privileges is refused at this stage. accordingly, the investor is stripped of his rights in the event he does not respect the obligations and the duties imposed to him.

-In this context the Algerian legislator granted another guarantee to reconsider or cancel these decisions, the investor who believes that has been unfairly entitled to withdraw or refuse to grant benefits or if the concerned department and bodies refuse to prepare decisions, documents and permits the right to appeal these decisions. On this basis, the legislator determined the methods of settling disputes arising between the investor and the national investment promotion agency or

anybody in charge of the investment process in all the stages through which the completion or exploitation of the investment project passes through appeal to the Supreme National Committee for Investment-related Appeals as well ,in addition, the investor may file a judicial appeal before the competent authorities.⁴

Through this study, we are trying to address only the administrative controls established by the legislator to settle the dispute related to benefits between the investor and the algerian investment promotion agency in case of refusal or withdrawal, or in case the designated bodies refuse to provide the required decisions, documents and permits, this study is limited, on this side only. it is not neglect or lack of importance of judicial settlement, but rather our awareness of the importance of administrative settlement of such disputes, which can be resolved by settling them amicably without resorting to the judiciary. it is also considered at the same time a decisive stage on which the existence of the judicial stage or dispensing with it depends,⁵

as we point out in at the same time, disputes related to guarantees granted to the investor are excluded from the framework of the study, which in turn are subject to other settlement methods. It must be asked **whether the Algerian legislator succeed to set administrative controls for settling disputes related to the benefits granted to the investor?**

We try to answer the problem raised by following the analytical approach to the legal texts related to investment and addressing the conditions and standards set by the legislator for the administrative settlement of the dispute according to two basic sections. In the first section, we discuss the obligation to submit a prior administrative grievance to the algerian investment promotion agency, while in the second section; we discuss the method of appeal to the supreme national committee for Investment-related appeals

1. First section: It is compulsory to submit a prior administrative grievance to the algerian investment promotion agency.

The algerian legislator has enshrined the right of appeal to the investor who seems to have been wronged regarding these benefits, starting with the administrative grievance, which is at the agency level, as it is the body from which the decision was issued against the investor or issued by one of its windows due to refusal. The concerned departments and bodies prepare decisions, documents, and permits, thus being the issuer of the administrative decision in question. However, the legislator obliged the investor to submit a grievance to the agency to reconsider the decision before resorting to an appeal to the Supreme National Committee for Investment-related Appeals. Therefore, we address in the first section the Algerian Investment Promotion Agency as a party to the dispute and an arbitrator at the same time, and then we address in a second section the conditions and procedures for prior administrative grievance at the agency.

1.1 First chapter: The algerian agency for Investment Promotion is a first destination for the investor to reconsider the decision.

The algerian agency for investment promotion⁶ is a public institution of an administrative nature that has a legal personality and financial independence. It is placed under the guardianship of the prime minister, and the agency's headquarters are located in the city of Algiers. The agency is subject to Executive Decree 22-298, which defines the organization of the Algerian Investment Promotion Agency and places it under the supervision of the prime minister. Investment Law 22-18 also entrusted the task of managing and following up on the investment policy of the National Investment Council, which limited its tasks to proposing the state's strategy in the field of investment and monitoring. On its comprehensive coordination and evaluation of its implementation⁷, while granting the algerian agency for investment promotion broader powers and

tasks in view of its importance and role in improving the investment climate.

The legislator further embodied this trend by issuing executive decree No. 22-298 by expanding the tasks assigned to the agency and detailing the tasks contained in Law No. 18-22. we will address the total tasks assigned to the agency through Law No. 18-22 and executive decree No. 22-298: according to article 18, paragraph 2, of Law 18-22, the agency is mandated to coordinate with the concerned departments and bodies with the following:(⁸)

- * Promoting and valuing investment in Algeria as well as abroad and Algeria's attractiveness by communicating with Algerian diplomatic representations and consulates abroad

- * Informing and sensitizing the business community

- * Ensuring the management of the investor's digital platform

- * Registering and processing investment files

- * Accompanying the investor in completing the procedures related to his investment

- * Managing Benefits, including those related to the portfolio of projects authorized or registered before the date of issuance of this law.

- * Follow up on the progress of investment projects. executive decree N°. 22-298 was issued which further detailed these tasks and placed them in specific areas. However, we cannot here mention all the areas, so we mention the areas that are related to the subject of the study, which are as follows:

1. In the field of managing the benefits:

- *Preparing investment registration certificates and amending them when necessary

- *Identifying structured projects, based on the standards and rules specified in the applicable regulation and concluding the agreements stipulated in Article 31 of Law 18-22 (⁹)

- *Verifying the possibility of benefiting from the advantages for investments Registered

*Marking lists of goods and services that can benefit from the benefits provided by the investor.

*Issuing decisions to withdraw benefits

*Issuing reports examining entry into the exploitation phase and determining the duration of exploitation benefits granted to the investment.

*Carrying out, in accordance with the applicable regulation, the transfer and/or transfer of goods and services that have benefited from the benefits.

*Preparing certificates of exemption from the value-added tax.

2. In the field of follow-up:

*By communicating with the relevant departments and bodies, we ensure that the commitments made by investors are respected.

*Processing investors' petitions and complaints.

* Developing the monitoring, listening and follow-up service for the benefit of registered ¹⁰ investments.

It is noted that the Algerian legislator has expanded the powers of the algerian investment promotion agency. Although it is considered a party to the dispute as it is the author of the decision to reject or withdraw benefits, the legislator has granted the right to reconsider its decision, and has even obligated the investor to submit a grievance to the agency before appealing to the appeals committee, and the request shall be made. The appeal is invalid if a prior grievance is not submitted to the agency. Perhaps the legislator imposed this step in order to avoid other measures that hinder the progress of investment. And so that the investor is given an opportunity to correct the mistake, and thus the dispute is resolved at the agency level without resorting to appeal to another party or resorting to judicial settlement, but in this case, when the grievance is submitted to the same party that issued the decision, it does not encourage the investor to resort to administrative and amicable settlement. For the dispute, it may be preferable to resort to judicial

settlement, given that there is another neutral party that will look into the dispute. In addition, for the investor, the grievance here may be a privilege added to the administration that is not an incentive for an amicable settlement of the dispute.

1.2 Second chapter: Prior administrative grievance with the Algerian Investment Agency.

Administrative grievance is a means to which the person affected by the administrative decision resorts, by which he requests the administrative body that issued the decision to reverse its decision in order to spare the trouble of resorting to the judiciary to demand the cancellation of the decision he is complaining ¹¹ about. Some have defined it as “access.” To solve administrative problems amicably, in a short time, and without resorting to the judicial ¹² method .

First part: the nature of the prior administrative grievance with the agency

The administrative grievance means that the individual against whom a decision was issued that harmed him approaches the administration and asks it to reconsider the decision it issued and correct it or cleanse it of the defects that befell it by canceling or withdrawing the decision. The grievance in this sense is an alternative method. Some administrative disputes can be settled by ending them in their early stages. Achieving administrative justice is easier for those dealing with the administration, as through this method it is possible to solve many problems amicably and in a short time before they resort to the administrative judiciary, and without spending the costs that would be incurred by the judicial method.

Because the issuance of the administrative decision is flawed does not mean that the administration wanted the decision to be so. In addition to the above, a grievance to the administration leads to results that cannot be reached through the judicial method.

Judicial oversight is mainly concerned with aspects of legality. As for the administration, it can amend the decision or cancel it. Just because it doesn't fit.¹³

The Algerian legislator enshrined the permissible nature of the administrative grievance in the decisions whose cancellation falls within the jurisdiction of the administrative courts and the State Council in accordance with Articles 830 and 709 of the Code of Civil and Administrative Procedures¹⁴. However, it is obligatory for the investor in the case of an administrative grievance in the face of disputes related to the benefits granted to the investor. Since the legislator considered an appeal before a committee inadmissible in the event of failure to submit a prior administrative grievance before the agency, Article 07 of Presidential Decree 296-22, which specifies the composition and functioning¹⁵ of the Supreme National Committee for Appeals, stipulates, **“the investor must, nevertheless, under penalty of inadmissibility.” An appeal may submit a grievance in advance before the National Agency for Investment Promotion by any means, within a period of one month starting from the date of his notification of the decision contained therein. ”**

If the acceptance of the appeal before the committee is linked to the investor submitting a prior grievance before the agency, then it is also obligatory in the event that the investor resorts to the judiciary, according to our understanding of the text of Article 11 of the Investment Law, which states: **“...and the investor, in addition to that, can file a lawsuit in this regard.” The matter shall be subject to a judicial appeal before the competent case authorities in accordance with the applicable legislation.**” Through the phrase (in addition to that), it is understood that the investor, after submitting an administrative grievance to the agency, can appeal to the Supreme Committee for Appeals in addition to filing a judicial appeal.

Second Part: Conditions for a prior administrative grievance with the agency.

The Algerian legislator, through Article 7 of Presidential Decree No. 22-296 mentioned above, obligated the investor to file a prior administrative grievance with the agency, a mandatory matter, before resorting to an appeal before the Supreme National Committee for Investment-Related Appeals, while it was not stipulated, according to What is in effect in some special laws that impose the compulsory administrative grievance on special procedures for this grievance, whether in this decree or in the investment law or other regulatory decrees related to investment. On the other hand, the legislator did not impose a specific means or official method for submitting the grievance in a file that could be any means of notification. Simple and accessible to the investor,

The legislator did not stipulate the method here in order to facilitate the matter for the investor, especially after the establishment of a digital platform for the investor in order to shorten the time and effort of the investor, while the legislator decided on the legal period for submitting a grievance within one month from the date of his notification of the decision. The Algerian Investment Promotion Agency is a public institution of an administrative nature, in which the prior administrative grievance is subject to what is required by the general rules of the conditions for administrative grievance in administrative disputes, and in order to encourage resort to amicable settlement of administrative disputes, the legal administrative grievance must meet the conditions regulated by the general rules, which are: We summarize the formal and substantive conditions as follows:

Firstly: The grievance must be submitted in the name of the complainant,

The grievance must be submitted in advance by the stakeholder, that is, the person concerned with the administrative decision. The

grievance must be from a natural or legal person, which some consider to be a condition of personal capacity and interest. The administration deals with him personally and not with him. Other entities or parties presented by the right holder himself or his legal representative.¹⁶

With regard to disputes related to the privileges granted to the investor, the grievance must also be made in advance and issued by the investor or his legal representative. In order for the grievance to be valid, it must include:

- * The name of the investor
- * Information about his investment project
- * The date the decision was issued
- * The subject of the decision being appealed against
- * A statement of the reasons on which he based it. The investor must file his grievance, in addition to any other documents or data that the investor deems useful in his grievance.

Secondly: Submitting a grievance to the competent administrative authority.

The grievance is usually submitted according to its classification to:¹⁷

- The province grievance must be submitted to the authority that issued the decision being appealed against.

A presidential grievance can be submitted to the authority that has the authority to comment on the decisions of the subordinate authority that issued the decision, and hierarchy doesn't need to be taken into account.

The grievance to the guardianship authority can only be made in cases where it has the powers to comment (cancel and amend) the decisions of the local authority in accordance with the conditions set by the law.

As for the type of appeal submitted by the investor who claims that he was wronged by the decision to refuse or withdraw benefits, it is a state appeal, as his appeal must be submitted at the level of the

same administration that issued the decision because it has the powers to consider this appeal, as it is the authority that issued the decision to refuse to grant or withdraw benefits. The legislator delegated the jurisdiction to consider the grievance to the administrative body that issued the decision, and this is what was stated in the text of Article 830/1 of the Civil and Administrative Procedures Law: “The person concerned with the administrative decision may submit a grievance to the administrative body that issued the decision.”¹⁸

For reference, submitting a grievance to the same party that issued the decision does not achieve equality between the parties, especially since the administrative grievance makes the administration a judge who combines the capacity of adversary and arbitrator at the same time¹⁹. This does not encourage filing a grievance with the same decision-making administration because there is nothing that would force it to back down from its position, which is always based on achieving the public interest.²⁰

Third: The grievance must be clear and precise

An administrative grievance cannot be useful unless it is submitted to the body that issued the decision whose legitimacy is questionable or to the presidential body of the body that issued the decision, since these bodies alone are capable of assessing the legality and appropriateness²¹ of the administratively contested decision.

When submitting a grievance to the agency, his grievance must be specific in meaning, and must not contain general and broad phrases that do not accurately express his grievance. In order for the agency to be able to consider the grievance, understand it, and determine its reasons and the purpose of submitting it, it must contain all the data. Sufficient information is free from ambiguity and interpretation, so he must use clear and understandable words and phrases that convey the exact meaning of the complainant’s request

Fourth: That the grievance be submitted within the specified deadlines.

The deadline is considered part of the public order, and failure to respect the deadlines for filing the grievance results in it not being accepted, as we find in Algerian law two types of grievance deadlines: the general deadline in the Code of Civil and Administrative Procedures, and the special deadlines for administrative grievances. It is stipulated in various special legal texts that are difficult to control²². The legislator stipulated that, with regard to disputes related to granting benefits, the investor should submit the grievance within the legal deadline specified for one month²³, starting from the date of notifying the investor of the decision to reject the request for benefits and withdrawing them from him, or the refusal of the competent departments to grant permits and prepare decisions and documents.

Fifth: The appeal must be feasible and based on a legal basis

The complaint must be based on existing legal or factual reasons that have affected the legal centers so that the administration has the ability to look into it. The feasibility appears through the extent of the possibility of the administrative body accepting the grievance or not. In order for the grievance to be Administratively feasible, the administrative body must have the ability to deal with it, from a legal standpoint, to amend, cancel or withdraw it.²⁴

The investor who is aggrieved by the agency's decision must have a legal basis, meaning that the Algerian legislator has granted him benefits in accordance with Investment Law 18-22, and all conditions for benefit are met, and on this basis, a grievance can be made. As for the agency that issued an arbitrary decision regarding those benefits that were supposed to To be implemented by force of law.

2 Second section: Administrative appeal before the Supreme Appeals Committee.

The investor submits a prior grievance request before the agency, which must be decided by the Director General of the agency within a period not exceeding 15 days from the date of receipt²⁵. In the event that the dispute is not resolved and the agency rejects the grievance submitted before it, the investor resorts to In this case, the appeal must be made before the competent appeals committee to which the legislator has assigned the task of deciding on investor appeals.

Accordingly, in a first request, we address the Supreme National Committee for Investment-related Appeals as a second destination for the investor to resort to in order to remove his grievances, and in a second request, we address the appeal procedures before the committee.

2.First chapter: The Supreme National Committee for Investment-Related Appeals, the Investor's Guarantee to Resolve the Dispute.

The Supreme National Committee for Investment-Related Appeals was established in accordance with Article 11 of Law 18-22 related to investment at the Presidency of the Republic, charged with adjudicating appeals submitted by investors, while Presidential Decree No. 296-22 of On September 4, 2022, the composition and functioning of the Supreme National Committee for Investment²⁶.

Article 2 of Decree No. 22-296 defines the committee, as “the committee is a higher body charged with deciding on appeals submitted by investors who believe they have been wronged, within the framework of applying the provisions of Law No. 18-22 related to investment.

The committee is composed of 7 members specified by Article 3 of Presidential Decree 296.’-22which stipulates:

* A representative of the Presidency of the Republic, as President

* A judge from the Supreme Court and a judge from the Council of State, proposed by the Supreme Judicial Council

* A judge for the Accounting Council proposed by the Council of Judges of the Accounting Council.

* Three (03) independent economic and financial experts are appointed by the President of the Republic.

Members of the committee are appointed by presidential decree for a term of 3 years, renewable once. The presidential decree also allows the committee to seek assistance from every qualified and experienced person²⁷.

The members of the committee are appointed by presidential decree for a term of three (3) years, renewable once.²⁸

It is noted that the Algerian legislator has radically changed the composition of the Supreme Appeals Committee by including judges and placing them under the supervision of the representative of the Presidency of the Republic. This indicates the independence of the committee. And the integrity of its decisions. It is also noted that the legislator did not include the committee among the institutional mechanisms for investment, but rather included it within the guarantees chapter. Perhaps the legislator intends by this to reassure the investor and give him confidence in this committee, which will be his guarantee in resolving the dispute. Despite this, we believe that it is better to include it within Institutional mechanisms as an administrative body.

2.2 Second chapter: Procedures for appeal before the Supreme National Committee for Investment-related Appeals.

The Algerian legislator grants the investor who believes that his right to obtain privileges, benefit from them, or even withdraw them has been infringed, the right to appeal at the level of the committee, before which we will present the most important measures taken in a second section, as follows: We discuss the type of dispute being appealed to the Committee in the first section.

Part One: The dispute being appealed to the Supreme Committee of Appeals

Article 6 of Presidential Decree 296-22 specifies the type of disputes within which the Supreme Committee of Appeals considers, which states: "The committee shall be notified by the investor of all types related to the investment, especially in the case of:

- Withdrawal or refusal to grant benefits
- Refusal to prepare decisions, documents and permits by the concerned departments and bodies. "

Firstly/ Withdrawal or refusal to grant benefits.

By registering his investment, the investor obtains a registration certificate according to which he can benefit from a number of benefits and privileges granted by the Investment Law. However, the request to benefit from the benefits may be met with rejection by the agency, despite submitting a grievance. However, the dispute is still ongoing and the rejection decision was issued again by the agency. In this case, the investor can submit an appeal to the Supreme Committee for Appeals.

The agency can grant the investor advantages during the completion stage. In this case, the agency follows up on the investor and the extent to which he has implemented his pledged commitments and exercises oversight through reports prepared by entities related to the investment.

In the event that the investor does not respect the deadlines for completing his investment or the obligations contained in The Investment Law pledged to it, such as preparing an annual list of project submissions from which the privileges are partially or completely ²⁹ withdrawn, while notifying the investor via a registered letter inviting him to come to its office to provide justifications. In the event of non-response, the investor is stripped of the benefits, his registration is canceled, and the decision to strip is considered. It is also subject to appeal before the Appeal Committee.

Secondly: Refusal to prepare decisions, documents and permits by the concerned departments and bodies.

The practice of some economic activities requires the investor to obtain a license to practice the activity, especially those related to regulated activities, or requires the practice of other activities to obtain a decision or specific documents to practice the activity or begin the completion of projects. This is what is required, for example, to benefit from a property, and the concerned departments may refuse to prepare the decision, required documents, or permits, which requires the investor who believes that he has been deprived of benefiting from the refusal decision to file an appeal with the committee.

Part Two: Procedures for appealing agency decisions before the Supreme Committee for Appeals.

Presidential Decree No. 296-22 includes the legal procedures for appealing before the competent committee in the field of investment and is classified into procedures related to the investor (first) and procedures for deciding on appeals before the committee (second).

First: Procedures related to the investor

after submitting the prior administrative grievance to the agency and issuing the rejection decision by it. The investor has the right to resort to the Supreme Appeal Committee and file an appeal before it within a period of 15 days starting from the date he was notified of the agency's³⁰ decision.

The investor submits a petition that includes a set of mandatory data specified in Article 08:³¹

- The appeal must be individual and signed.
- The specific appeal must include the title, name, address and capacity of the exhibitor or his legally authorized representative,
- A memorandum reviewing the facts and methods. The appeal file is sent directly to the committee or through the investor platform, accompanied by all supporting documents.

Second: Procedures for adjudicating the appeal before the committee.

Once the committee receives the investor's appeal, it meets to decide on his appeal within a period specified by the legislator, one full month from the date of its notification.³² Before the final decision on the subject of the dispute, the committee does the following:

- Send a copy of the appeal file to the department or authority concerned, which must respond regarding the points to which the investor objected, Within a period of ten (10) days from the date of receipt of the file³³, which makes the refusal of the agency or one of the bodies or departments justified and at the same time obliges it to provide its justification to the committee.

- The committee also has the right to review the administrative documents related to the investment projects that are the subject of the dispute.

- The committee invites the appellant investor, as well as a representative from the national agency or administration concerned with the investor's appeal, to listen to them and present their problems and the justifications for the investor's appeal, as well as the administration's decision regarding its rejection of the application for benefits and its withdrawal.³⁴

After listening to the parties to the dispute and considering the appeal file, the committee confirms the appeal after deliberation in the presence of at least two-thirds of its members. The committee's decisions are approved by a majority of the votes of the members present,³⁵

and in the event of equal votes, the president's vote shall be casting. After the committee's decision is issued, the parties will be notified within a period not exceeding 8 days from the date of its pronouncement by any means. The legislator did not stipulate a specific means of notification, and its decision will be effective.³⁶

It is noted that the powers granted to the committee through Presidential Decree 22-296 are very specific and limited. The question

remains as to whether it hears both sides of the dispute and reviews the documents that enable it to actually take the decision to settle the dispute without harming the interests of the investor or the national economic interests, especially since its decisions are effective.

- CONCLUSION

By issuing a new investment law and accelerating the issuance of its regulatory decrees, the legislator tried to improve the investment climate in Algeria and encourage investment in all fields. Therefore, the investor must be given more confidence and security to benefit from the privileges granted by Investment Law 18-22 to the investor and find There are sufficient means to reduce disputes in the field of investment. The legislator has made room for amicable or judicial settlement of disputes related to the privileges granted to the investor under this law.

-The legislator allowed the amicable settlement of disputes related to the privileges granted to the investor through simplified administrative procedures through which he can regain his right to benefit from the benefits away from the intervention of the judiciary. The dispute can be reduced at the level of the Algerian Agency for Investment Promotion after filing the administrative grievance with it, or the dispute can be decided after filing an appeal at the level of the Supreme National Committee for Investment-Related Appeals, which the legislator considered at the same time a guarantee to provide to the investor. Through this study of the various administrative controls and conditions set by the Algerian legislator to resolve disputes related to the privileges granted to national and foreign investors under Investment Law 18-22, we can say that despite the legislator's efforts to simplify administrative procedures and controls to reduce disputes related to investments and resolve them in a manner Friendly and far from the judiciary, but in reality it remains in the investor's eyes insufficient to give him the confidence and security necessary to protect his investment or investment in Algeria, especially when a

grievance is submitted at the level of the agency, which becomes a party and an arbiter at the same time, which creates a lack of reassurance and security in the soul. For the investor, the agency remains an administrative body whose primary concern is the public interest, and to him we suggest the following:

- Restricting the general rules related to the agency's prior administrative grievance and making it optional, specifying its nature and in the event of going to court.
- Reducing the time for considering the dispute, whether at the level of the Algerian Investment Promotion Agency, especially since it is a party to the dispute, or the deadline for appeal at the level of the Supreme Appeals Committee.
- Establishing mechanisms to assist the committee's work to accompany the investor to benefit from the privileges in order to avoid any future dispute regarding the benefits granted to the investor.

- Endnotes:

¹ - Law 22-18 on 24/07/2022 relating to investment, Official Journal No. 50 issued on 28/07/2022.

² -Article 2 of Law 22-18 relating to investment: "The provisions of this law aim to encourage investment, with the aim of:

- Developing priority activity sectors with high added value.

- Ensuring sustainable and balanced regional development.

- Valuing natural resources and protected raw materials.

- Mainstreaming the use of modern technology.

- Activating the creation of permanent job positions and upgrading human resources competencies.

- Strengthening and improving the competitiveness of the national economy and its ability to export."

³ -Article 25 of Law 22-18 relating to investment

⁴ -Article 11 of Law 22-18 relating to investment

⁵ - Article 11/3 states, "In addition, the investor may file a judicial appeal in this regard before the competent authorities in accordance with the applicable legislation," although the Algerian legislator allowed the investor, through the text of this article, to resort to the judiciary at the

same time without the need he has to wait for the deadlines for grievances with the agency or the deadlines for appeals with the committee, but his interest is decisive in resorting to the judiciary or being satisfied with administrative settlement.

- ⁶ - Executive Decree No. 22-298 of 08/09/2022 determining the organization and functioning of the Algerian Investment Promotion Agency, Official Journal No. 60 dated on 18/09/2022, Article 2 of the decree referred to the name and definition of the agency, where the previous designation of the agency was replaced by "National Agency To promote investment", to "the Algerian Agency for Investment Promotion", called in the body of the text "the Agency".
- ⁷ -Article 17 of Law 22-18 relating to investment.
- ⁸ - Article 18, paragraph 2 of Law 22-18 relating to investment.
- ⁹ - Article 31 of Law 22-18 relating to investment
- ¹⁰ - Article 04 of Executive Decree 22-298 specifies the organization and functioning of the Algerian Investment Promotion Agency.
- ¹¹ -Madjid Ragheb Al-Helu, Administrative Judiciary, Manshaat Al-Maaref, (2004), p. 325.
- ¹² -¹² Abdullah Talabah, Administrative Law, Judicial Control of Administration Activities, Administrative Judiciary, Aleppo University Publications, 2nd edition, Syria, (1997), p. 243.
- ¹³ - Mohannad Nouh, "Administrative Grievance," Specialized Legal Encyclopedia, Volume 2, p. 193
- ¹⁴ - Law No. 08-09 dated February 25, 2008 includes the Civil and Administrative Procedures Law, No. 21, issued on April 23, 2008.
- ¹⁵ - Presidential Decree 22-296 of 04/09/2022 determining the composition and functioning of the Supreme National Committee for Investment-Related Appeals, Official Journal No. 60 dated 18/09/2022
- ¹⁶ - Mariah Al-Aqoun, Mohamad Barakat, "Regulating Administrative Grievances in the Law of Civil and Administrative Procedures," Journal of Law and Human Sciences, M'sila, Volume Ten, Issue 01, p. 396.
- ¹⁷ - Mariah Al-Aqoun, Mohamad Barakat, previous reference, p. 397.
- ¹⁸ - Law 08-09, mentioned above.

- ¹⁹ - Boudhiaf Ammar, “Administrative Disputes in Algerian Law between the Prior Grievance Procedure and Reconciliation,” Communication Magazine, Issue 15, Annaba University, (2005), p. 158.
- ²⁰ - Kamoun Hussein, “The effectiveness of administrative grievance as a procedure for amicably settling administrative disputes in the Code of Civil and Administrative Procedures and Special Laws,” Journal of Rights and Liberties, Issue 06, University of Biskra, 2018, p. 168.
- ²¹ - Abdellah Talabah, previous reference, p. 243.
- ²² - Kamoun Hussein, previous reference, p. 170-
- ²³ - Article 07 of Presidential Decree 22-296 specifying the composition and functioning of the committee
- ²⁴ - Mariah Al-Aqoun, Mohamad Barakat, previous reference, p. 398.
- ²⁵ - Article 7/2 Presidential Decree 22-296
- ²⁶ - Presidential Decree No. 22-296 of September 4, 2022 Composition and functioning of the Supreme National Committee for Investment Appeals, Official Gazette No. 60 dated 09/18/2022.
- ²⁷ - Article 03 of Presidential Decree 22-296.
- ²⁸ - Article 4 of Presidential Decree 22-296
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- ²⁹ - Article 36, paragraph 2 of Law 22/18 related to investment: “In the event of failure to respect the obligations resulting from the application of the provisions of this law or the pledges to which the investor has committed, these benefits may be withdrawn partially or completely without prejudice to the penalties stipulated in the applicable legislation.”
- ³⁰ - Article 6 of Presidential Decree 22-296
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- ³¹ - Article 08 “The appeal must be individual and signed, and shall include in particular the title, name, address and title of the bidder or his legally authorized representative and a memorandum reviewing the facts and means.”
- ³² - Article 9 of Presidential Decree 22-296
- ³³ - Article 11 of Presidential Decree 22-296
- ³⁴ - Article 10 of Presidential Decree 22-296
- ³⁵ - Article 12 of Presidential Decree 22-296
- ³⁶ - Article 13 of Presidential Decree 22-296

List of sources and references:

First: Sources:

- 1- Law No. 18-22 of 24/07/2022 related to investment, Official Journal N°. 50 issued on 28/07/2022
- 2- Law No. 09-08 of February 25, 2008 includes the Civil and Administrative Procedures Law No. 21 issued on : April 23, 2008.
- 3- Presidential Decree 22-296 dated: September 4, 2022 determining the composition of the Supreme National Committee for Investment-Related Appeals and its functioning, Official Journal No. 60 dated: 18/09/2022
- 4- Executive Decree 298-22 dated 08/09/2022 The organization and functioning of the Algerian Agency for Investment Promotion is determined, Official Journal No. 60 dated 18/09/2022

Reference list:

- Madjid Ragheb Al-Helu, Administrative Judiciary, Manshaat Al-Maaref, 2004.
- Mohannad Nouh, “Administrative Grievance”, Specialized Legal Encyclopedia, Volume 2.
- Abdellah Talba, Administrative Law, Judicial Oversight of Administration Works, Administrative Judiciary, University Publications Aleppo, 2nd edition, Syria, 1997
- Boudiaf Ammar, “Administrative Disputes in Algerian Law between the Prior Grievance Procedure and Reconciliation,” Al-Tawasul Magazine, No. 15, University of Annaba, 2005.
- Mariah Al-Aqoun, Mohamad Barakat, “Regulating Administrative Grievances in the Law of Civil and Administrative Procedures.” Journal of Law and Human Sciences, M’sila, Volume Ten, Issue 01, .
- Kamoun Hussein, “The extent of the effectiveness of administrative grievance as a procedure for amicably settling administrative disputes in the Code of Civil and Administrative Procedures and Special Laws,” Journal of Rights and Liberties, Issue 06, University of Biskra, 2018.