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أ. هزاع نسمة



جامعة أحمد بوقرة بومرداس

كلية الحقوق والعلوم السياسية

M'HAMED BOUGARA UNIVERSITY BOUMERDES

FACULTY OF LAW AND POLITICAL SCIENCES



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(نصوص تشريعية وفقهية Legislative and jurisprudential texts)

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Lectures for students of the second year Master /(3) Third semester

Specialization in Public Law

من إعداد الدكتورة/ عيسى زهية

PREPARED BY / Dr AISSA ZAHIA

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توطئة

أسندت لي إدارة قسم القانون العام بكلية الحقوق والعلوم السياسية بجامعة أمحمد بوقرة بومرداس منذ ثلاث سنوات ونحن في الرابعة منها مهمة تدريس مقياس اللغة الأجنبية - اللغة الإنجليزية-1-2-3 "قانون"، في مختلف أطوار الماستر السنة الأولى والثانية بـسداسياته الثلاثة، ببرامج تتضمن مصطلحات قانونية ومواضيع قانونية نصوص تشريعية داخلية ودولية ونصوص فقهية، وبعد هذه التجربة المتواصلة في تدريس المادة، توجت بإصدار مطبوعة لطلبة السنة الثانية ماستر، مع العلم أنه وزع مختصر مطبوع منها على الطلبة في السنوات السابقة.

تتضمن هذه المطبوعة البيداغوجية لمقياس - اللغة الإنجليزية 3- التي كلفت بتدريسها على طلبة طور الماستر السنة الثانية السداسي الثالث للسنة الجامعية 2020-2021، مجموعة من المحاضرات تتضمن مجموعة من المواضيع القانونية المتنوعة منها نصوص تشريعية داخلية ودولية وكذا فقهية، جاءت وفق ما تضمنه البرنامج الرسمي لعرض التكوين وتتوافق مع التخصص.

تهدف هذه المحاضرات إلى السماح للطلبة بتناول المواضيع والمسائل القانونية باللغة الإنجليزية وتسهيل عملية استيعابها كما تهدف إلى تطوير المعارف القانونية باللغة الإنجليزية والتحكم في توظيف المراجع المعتمد عليها.

آملين في الأخير أن تُسهم هذه المطبوعة البيداغوجية في تطوير المعارف القانونية للطلبة خاصة وأننا لمسنا خلال هذه السنوات اهتمام كبير منهم لهذه المادة وحرصهم على اكتساب معارف قانونية باللغة الإنجليزية.

Foreword :

Three years ago, the Department of Public law at Faculty of Law and Political Sciences at Mhamed Bougara University of Boumerdes entrusted me with the task of teaching the Foreign language –English language – 1– 2 and 3 “LAW”, in the various stages first and second year masters (3 semesters), with programs that included legal terms, internal and international legislative texts and jurisprudential texts, and after this continuous experience in teaching the subject, it culminated in the issuance of a Pedagogical publication for students the second year Master, knowing that a printed summary of it was distributed to students in previous years.

This pedagogical publication of the English legal topics that I was assigned to teach to students of the second year master third semester of the Academic year 2020–2021, includes a set of lectures that include a group of various legal topics, including internal and international legislative texts as well as jurisprudential texts, which came according to what was included in the official program to present training and correspond with Specialization.

These lectures aim to allow students to deal with legal topics and issues in the English language and facilitate the process of understanding them. They also aim to develop legal knowledge in English and control the employment of reliable references.

Finally, we hope that this pedagogical publication will contribute to the development of legal knowledge for students, especially since we have seen during these years a great interest from them for this subject and their eagerness to acquire legal knowledge in the English language

Introduction




The main topics which are developed in this pedagogical publication are subject of public law such as environmental law, sustainable development, intellectual property law, international criminal court, investment in Algeria, Electronic government and cybercrimes.

Main ideas were introduced in those topics, such as in the chapter of environmental law, its definition, the International environmental law, Environment in Constitutions and the importance of environmental law.

For sustainable development, The United Nations development program, the definition of Sustainable Development Goals, the 17 Sustainable Developments Goals.

For the World Intellectual Property, we started by its definition, the main organs and Objectives of World Intellectual Property Organization. Then the categories of intellectual property and finally by the principal sources of income of WIPO's regular budge.

For the International Criminal Court, we started by giving the contents of the Rome statute of the International Criminal Court, the preamble of Rome statute. Following that by the establishment



Of the Court, Jurisdiction, Admissibility and Applicable Law, General Principles of Criminal Law, Composition and Administration of The International Criminal Court, Official and working languages, Investigation and Prosecution, Financing of the Court, Final Clauses of the Rome Statute.

The contents of the chapter of investment in Algeria are the National Agency of Investment Development, The one stop shop, and the Advantages of investment in Algeria.

The two last chapters were about the electronic government, starting by giving its definition, and the E-government's advantages, then the E-government disadvantages, and about cybercrimes, its Definition, General types of cybercrimes and Cybercrime prevention.

CHAPTER 01

ENVIRONMENTAL LAW

Chapter 01: Environmental law

Introduction:

Environmental law comprises rules that aim to protect the environment. Several international agreements have been issued regarding the environment issue, and the environment has also been included in the constitutions and internal laws of many countries.

In this chapter we will give the definition of the international environmental law (**section 1**), Environment in Constitutions (**section 2**), and the importance of environmental law (**section 3**),

Section 1: International environmental law

The international environmental law is a branch of public law. The international environmental law covers topics such as air, land, water pollution, biodiversity, climate change, ozone depletion, toxic and hazardous substances, desertification, and nuclear damage. Many conventions are concluded with the aim of protecting nature.

Legal instruments have been adopted at both the regional and global level. Historically, the treaties that are often identified as monumental in the formation of international environmental law include:

- «– The Stockholm Conference (1972),
- United Nations Convention on the Law of the Sea (“UNCLOS”) (1982),
- World Conference on Environment and Development (1987),
- United Nations Conference on Environment and Development (1992),

–The World Summit on Sustainable Development (2002) »¹.

a)– The Stockholm Conference (1972):

The 1972 United Nations Conference on the Environment in Stockholm was the first world conference to make the environment a major issue. The participants adopted a series of principles for sound management of the environment including the Stockholm Declaration and Action Plan for the Human Environment and several resolutions².

«The Stockholm Declaration, which contained 26 principles, placed environmental issues at the forefront of international concerns and marked the start of a dialogue between industrialized and developing countries on the link between economic growth, the pollution of the air, water, and oceans and the well-being of people around the world.

The Action Plan contained three main categories:

- a) Global Environmental Assessment Program;
- b) Environmental management activities;
- (c) International measures to support assessment and management activities carried out at the national and international levels. In addition, these categories were broken down into 109 recommendations.

One of the major results of the Stockholm conference was the creation of the United Nations Environment Programme (UNEP) »³.

¹See: www.un.org, (Consulted on March 3, 2020, at 17h30).

² <https://www.un.org/en/conferences/environment/stockholm1972>, (Consulted March 3, 2020, at 18h00).

³ Ibid.

b)– United Nations Convention on the Law of the Sea “UNCLOS” (1982):

The United Nations Convention on the Law of the Sea (UNCLOS), also called the Law of the Sea Convention or the Law of the Sea treaty, is an international agreement that resulted from the third United Nations Conference on the Law of the Sea, which took place between 1973 and 1982.

The Law of the Sea Convention defines the rights and responsibilities of nations with respect to their use of the world's oceans, establishing guidelines for businesses, the environment, and the management of marine natural resources.

The Convention, concluded in 1982, was opened for signature on 10 December 1982 and entered into force on 16 November 1994 upon deposition of the 60th instrument of ratification⁴.

c)– World Conference on Environment and Development (1987):

«The UN’s World Commission for Environment and Development, chaired by former Norwegian Prime Minister Gro Harlem Brundtland and thus referred to as the Brundtland Commission, published the report “Our Common Future,” also known as the “Brundtland Report,” in 1987. The

⁴ The United Nations Convention on the Law of the Sea (A historical perspective), United Nations Division for Ocean Affairs and the Law of the Sea. Retrieved 30 April 2009. https://www.un.org/Depts/los/convention_agreements/convention_historical_perspective.htm , (Consulted on March 3, 2020, at 18h30).

report defined the principle of sustainable development as “development that meets the needs of the present without compromising the ability of future generations to meet their own needs»⁵.

d)– United Nations Conference on Environment and Development (1992):

«The United Nations Conference on Environment and Development (UNCED), also known as the 'Earth Summit', was held in Rio de Janeiro, Brazil, from 3–14 June 1992. This global conference, held on the occasion of the 20th anniversary of the first Human Environment Conference in Stockholm, Sweden, in 1972.

The primary objective of the Rio 'Earth Summit' was to produce a broad agenda and a new blueprint for international action on environmental and development issues that would help guide international cooperation and development policy in the twenty-first century»⁶.

⁵ United Nations World Commission on Environment and Development, ed. Report of the World Commission on Environment and Development: Our Common Future. Oxford: Oxford University Press, 1987

For further readings:

–Ivanova, Maria. "Designing the United Nations Environment Programme: A Story of Compromise and Confrontation." *International Environmental Agreements* 7 (2007): 337–61;

–Wood, H. W. "The United Nations World Charter for Nature: The Developing Nations' Initiative to Establish Protections for the Environment." *Ecology Law Quarterly* 977 (1985): 977–96;

–Hinrichsen, Don. *Our Common Future: A Reader's Guide. The 'Brundtland Report' Explained*. London: Earthscan Ltd., 1987.

⁶ <https://www.un.org/en/conferences/environment/rio1992>. (Consulted on April 7, 2020, at 20h30).

«The 'Earth Summit' concluded that the concept of sustainable development was an attainable goal for all the people of the world, and one of the major results of the UNCED Conference was Agenda 21, a daring program of action calling for new strategies to invest in the future to achieve overall sustainable development in the 21st century. Its recommendations ranged from new methods of education, to new ways of preserving natural resources and new ways of participating in a sustainable economy⁷.

The 'Earth Summit' had many great achievements: the Rio Declaration and its 27 universal principles, the United Nations Framework Convention on Climate Change (UNFCCC), the Convention on Biological Diversity; and the Declaration on the principles of forest management»⁸.

e)–The World Summit on Sustainable Development (2002):

The World Summit on Sustainable Development (WSSD) was held in Johannesburg, South Africa from 26 August – 4 September 2002 to review progress since the Rio conference in 1992, and to agree a new global deal on sustainable development, it brought together tens of thousands of participants, including heads of State and Government, national delegates and leaders from non-governmental organizations (NGOs), businesses and other major groups to focus the world's attention and direct action toward meeting difficult challenges, including improving people's lives and conserving natural resources in a world that is growing in population, with

⁷ <https://www.un.org/en/conferences/environment/rio1992>. (Consulted on April 7, 2020, at 21h00).

⁸ Ibid.

ever-increasing demands for food, water, shelter, sanitation, energy, health services and economic security⁹.

Section 2: Environment in Constitutions:

Most of countries introduced environment in the constitutions as example, the Algerian Constitution at **the Preamble**: “The Algerian people shall remain committed to their choices in order to restrain class differences and abolish all aspects of regional disparities. They shall work towards building a productive and competitive economy within the framework of sustainable development and environmental protection”¹⁰.

“...People also remain preoccupied with environmental degradation and the negative consequences of climate change...”¹¹.

⁹ Ibid

For further readings:

–Annan K: Towards a Sustainable Future. New York: the American Museum of Natural History's Annual Environmental Lecture. 2002.

–Von Schirnding, Y. The World Summit on Sustainable Development: reaffirming the centrality of health. *Global Health* 1, 8 (2005).

¹⁰ In Preamble of 2016 Constitutional Amendment, Law n°16-01 of 26 Jumada Al Ouwla 1437H corresponding to 6 March 2016, which includes the constitutional amendment, Official Journal of the Republic of Algeria n°14 of 27 Jumada Al Ouwla 1437H corresponding to 7 March 2016.(Arabic version).

¹¹In Preamble of 2020 Constitutional Amendment, Presidential Decree No. 20-442 of Jumada Al Ouwla 15, 1442, corresponding to December 30, 2020, relating to the issuance of the constitutional amendment, ratified in a referendum of November 1, 2020, in the Official Journal of the People's Democratic Republic of Algeria, the official Journal No. 82 dated 15 Jumada Al Ouwla 1442, corresponding to December 30, 2020. .(Arabic version).

–At Chapter of “Rights and Freedoms” : “**C**itizens shall have the right to a healthy environment. The State shall work towards preserving the environment. The law shall determine the obligations of natural and legal persons pertaining to the protection of the environment”.¹²

“Citizens have the right to a healthy environment within the framework of sustainable development”.¹³

–At Chapter of “Legislative power: “Parliament shall legislate on the subject matters assigned to it by the Constitution as well as in the following fields:...

– General rules relating to the environment, living conditions, and town and country planning;...”¹⁴.

Section 3: The importance of environmental law:

The environmental law is important for:

- Health of current generations;
- Health of futures generations;
- Maintaining resources and lifestyle;
- Ecology.

¹² Art 68, 2016 Constitutional Amendment, Op.cit.

¹³ Art 64, 2020 Constitutional Amendment, Op.cit.

¹⁴ Art140/18, 2016 Constitutional Amendment; – Art 139/19, 2020 Constitutional Amendment, Op.cit.

Terminology:

Environmental law: قانون البيئة

International agreements: الاتفاقيات الدولية

Branch of public law: فرع من فروع القانون العام

Air, land, water pollution: تلوث الهواء ، الأرض والماء

Biodiversity: التنوع البيولوجي

Desertification: التصحر

Nuclear damage: الضرر النووي

Protecting nature: حماية الطبيعة

Law of the Sea: قانون البحار

General rules: القواعد العامة

Living conditions: إطار المعيشة

Town and country planning: التهيئة العمرانية

Sustainable Development: التنمية المستدامة

CHAPTER 02:

SUSTAINABLE

DEVELOPMENT

Chapter 2: Sustainable development

Definition of sustainable development:

Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs. In this chapter we will give the definition of The United Nations development program (**Section 1**), the definition of Sustainable Development Goals (**Section 2**), The 17 Sustainable Development Goals (**Section 3**).

Section 1 :The United Nations development program

UNDP works in 170 countries and territories to eradicate poverty while protecting the planet. UNDP help countries develop strong policies, skills, partnerships and institutions so they can sustain their progress.

Section 2: Definition of Sustainable Development Goals

The Sustainable Development Goals (SDGs) were born at the United Nations Conference on Sustainable Development in Rio de Janeiro in 2012. The 17 Sustainable Development Goals also known as the Global Goals, were adopted by all United Nations Member States in 2015 (with 169 targets to reach by 2030) as a universal call to action to end poverty, protect the planet and ensure that all people enjoy peace and prosperity by 2030¹⁵.

¹⁵ <https://www.undp.org/content/undp/en/home/sustainable-development-goals/background.html> , (Consulted on April 11, 2020, at 21h00).

The objective was to produce a set of universal goals that meet the urgent environmental, political and economic challenges facing our world¹⁶.

The SDGs replace the Millennium Development Goals , which started a global effort in 2000 to tackle the indignity of poverty. The Millennium Development Goals established measurable, universally-agreed objectives for tackling extreme poverty and hunger, preventing deadly diseases, and expanding primary education to all children, among other development priorities¹⁷.

For 15 years, the Millennium Development Goals drove progress in several important areas: reducing income poverty, providing much needed access to water and sanitation, driving down child mortality and drastically improving maternal health. They also kick-started a global movement for free primary education, inspiring countries to invest in their future generations. Most significantly, the MDGs made huge strides in combatting HIV/AIDS and other treatable diseases such as malaria and tuberculosis¹⁸.

¹⁶ The Sustainable Development Goals are the blueprint to achieve a better and more sustainable future for all. They address the global challenges we face, including poverty, inequality, climate change, environmental degradation, peace and justice. Learn more and take action. the SDGs are designed to bring the world to several life-changing ‘zeros’, including zero poverty, hunger, AIDS and discrimination against women and girls.

¹⁷ <https://www.undp.org/content/undp/en/home/librarypage/mdg/the-Millennium-Development-goals/report-2015.html> , (Consulted on April 7, 2020, at 21h30).

¹⁸ <https://www.undp.org/content/undp/en/home/sustainable-development-goals/background.html> , (Consulted on April 7, 2020, at 21h30).

Section 3 : The 17 Sustainable Development Goals

The 17 Sustainable Development Goals (SDGs) are a call for action by all countries – poor, rich and middle-income – to promote prosperity while protecting the planet. They recognize that ending poverty must go hand-in-hand with strategies that build economic growth and address a range of social needs including education, health, social protection, and job opportunities, while tackling climate change and environmental protection¹⁹.

The United Nations development program defined The 17 Sustainable Development Goals as below:

Goal 1: No poverty in all its forms everywhere

«Eradicating poverty in all its forms remains one of the greatest challenges facing humanity. While the number of people living in extreme poverty dropped by more than half between 1990 and 2015, too many are still struggling for the most basic human needs.

As of 2015, about 736 million people still lived on less than US\$1.90 a day; many lack food, clean drinking water and sanitation. Rapid growth in countries such as China and India has lifted millions out of poverty, but progress has been uneven. Women are more likely to be poor than men because they have less paid work, education, and own less property²⁰.

¹⁹ <https://www.un.org/sustainabledevelopment/> , (Consulted on April 7, 2020, at 22h00).

²⁰ <https://www.undp.org/content/undp/en/home/sustainable-development-goals.html>, (Consulted on April 7, 2020, at 22h30).

<https://www1.undp.org/content/brussels/en/home/sustainable-development-goals/goal-1-no-poverty.html>

Progress has also been limited in other regions, such as South Asia and sub-Saharan Africa, which account for 80 percent of those living in extreme poverty. New threats brought on by climate change, conflict and food insecurity, mean even more work is needed to bring people out of poverty.

The Sustainable Development Goals are a bold commitment to finish what we started, and end poverty in all forms and dimensions by 2030. This involves targeting the most vulnerable, increasing basic resources and services, and supporting communities affected by conflict and climate-related disasters »²¹.

Goal 2: Zero hunger end hunger achieve food security and improved nutrition and promote sustainable agriculture

«The number of undernourished people has dropped by almost half in the past two decades because of rapid economic growth and increased agricultural productivity. Many developing countries that used to suffer from famine and hunger can now meet their nutritional needs. Central and East Asia, Latin America and the Caribbean have all made huge progress in eradicating extreme hunger.

Unfortunately, extreme hunger and malnutrition remain a huge barrier to development in many countries. There are 821 million people estimated to be chronically undernourished as of 2017, often as a direct consequence

²¹ Ibid.

of environmental degradation, drought and biodiversity loss. Over 90 million children under five are dangerously underweight. Undernourishment and severe food insecurity appear to be increasing in almost all regions of Africa, as well as in South America.

The Sustainable Development Goals aim to end all forms of hunger and malnutrition by 2030, making sure all people—especially children—have sufficient and nutritious food all year. This involves promoting sustainable agricultural, supporting small-scale farmers and equal access to land, technology and markets. It also requires international cooperation to ensure investment in infrastructure and technology to improve agricultural productivity»²².

Goal 3: Good health and well-being

«Great progress has been made against several leading causes of death and disease. Life expectancy has increased dramatically; infant and maternal mortality rates have declined, we've turned the tide on HIV and malaria deaths have halved.

Good health is essential to sustainable development and the 2030 Agenda reflects the complexity and interconnectedness of the two. It takes into account widening economic and social inequalities, rapid urbanization, threats to the climate and the environment, the continuing burden of HIV and other infectious diseases, and emerging challenges such as non-communicable diseases. Universal health coverage will be integral to

²² <https://www1.undp.org/content/brussels/en/home/sustainable-development-goals/goal-2-zero-hunger.html> (Consulted on April 7, 2020, at 22h30).

achieving Sustainable Development Goal 3, ending poverty and reducing inequalities. Emerging global health priorities not explicitly included in the Sustainable Development Goals, including antimicrobial resistance, also demand action.

But the world is off-track to achieve the health-related Sustainable Development Goals. Progress has been uneven, both between and within countries. There's a 31-year gap between the countries with the shortest and longest life expectancies. And while some countries have made impressive gains, national averages hide that many are being left behind. Multisectoral, rights-based and gender-sensitive approaches are essential to address inequalities and to build good health for all »²³.

Goal 4: Quality education

«Since 2000, there has been enormous progress in achieving the target of universal primary education. The total enrolment rate in developing regions reached 91 percent in 2015, and the worldwide number of children out of school has dropped by almost half. There has also been a dramatic increase in literacy rates, and many more girls are in school than ever before. These are all remarkable successes.

Progress has also been tough in some developing regions due to high levels of poverty, armed conflicts and other emergencies. In Western Asia and North Africa, ongoing armed conflict has seen an increase in the number of children out of school. This is a worrying trend. While Sub-

²³ <https://www1.undp.org/content/oslo-governance-centre/en/home/sustainable-development-goals/goal-3-good-health-and-well-being.html> , (Consulted on April 7, 2020, at 22h30).

Saharan Africa made the greatest progress in primary school enrolment among all developing regions – from 52 percent in 1990, up to 78 percent in 2012 – large disparities still remain. Children from the poorest households are up to four times more likely to be out of school than those of the richest households. Disparities between rural and urban areas also remain high.

Achieving inclusive and quality education for all reaffirms the belief that education is one of the most powerful and proven vehicles for sustainable development. This goal ensures that all girls and boys complete free primary and secondary schooling by 2030. It also aims to provide equal access to affordable vocational training, to eliminate gender and wealth disparities, and achieve universal access to a quality higher education »²⁴.

Goal 5: Gender equality

«Ending all discrimination against women and girls is not only a basic human right, it's crucial for sustainable future; it's proven that empowering women and girls helps economic growth and development.

UNDP has made gender equality central to its work and we've seen remarkable progress in the past 20 years. There are more girls in school now compared to 15 years ago, and most regions have reached gender parity in primary education.

But although there are more women than ever in the labour market, there are still large inequalities in some regions, with women systematically denied the same work rights as men. Sexual violence and exploitation, the

²⁴ <https://www1.undp.org/content/brussels/en/home/sustainable-development-goals/goal-4-quality-education.html> , (Consulted on April 7, 2020, at 22h30).

unequal division of unpaid care and domestic work, and discrimination in public office all remain huge barriers. Climate change and disasters continue to have a disproportionate effect on women and children, as do conflict and migration.

It is vital to give women equal rights land and property, sexual and reproductive health, and to technology and the internet. Today there are more women in public office than ever before, but encouraging more women leaders will help achieve greater gender equality »²⁵.

Goal 6: Clean water and sanitation

«Water scarcity affects more than 40 percent of people, an alarming figure that is projected to rise as temperatures do. Although 2.1 billion people have improved water sanitation since 1990, dwindling drinking water supplies are affecting every continent.

More and more countries are experiencing water stress, and increasing drought and desertification is already worsening these trends. By 2050, it is projected that at least one in four people will suffer recurring water shortages.

Safe and affordable drinking water for all by 2030 requires we invest in adequate infrastructure, provide sanitation facilities, and encourage hygiene. Protecting and restoring water-related ecosystems is essential.

²⁵ <https://www1.undp.org/content/brussels/en/home/sustainable-development-goals/goal-5-gender-equality.html>, , (Consulted on April 7, 2020, at 22h30).

Ensuring universal safe and affordable drinking water involves reaching over 800 million people who lack basic services and improving accessibility and safety of services for over two billion.

In 2015, 4.5 billion people lacked safely managed sanitation services (with adequately disposed or treated excreta) and 2.3 billion lacked even basic sanitation »²⁶.

Goal 7: Affordable and clean energy

«Between 2000 and 2016, the number of people with electricity increased from 78 to 87 percent, and the numbers without electricity dipped to just below one billion.

Yet as the population continues to grow, so will the demand for cheap energy, and an economy reliant on fossil fuels is creating drastic changes to our climate.

Investing in solar, wind and thermal power, improving energy productivity, and ensuring energy for all is vital if we are to achieve Sustainable Development Goal 7 by 2030.

Expanding infrastructure and upgrading technology to provide clean and more efficient energy in all countries will encourage growth and help the environment »²⁷.

²⁶ <https://www1.undp.org/content/brussels/en/home/sustainable-development-goals/goal-6-clean-water-and-sanitation.html>, (Consulted on April 7, 2020, at 22h30).

²⁷ <https://www1.undp.org/content/brussels/en/home/sustainable-development-goals/goal-7-affordable-and-clean-energy.html>, (Consulted on April 7, 2020, at 22h30).

Goal 8: Decent work and economic growth

«Over the past 25 years the number of workers living in extreme poverty has declined dramatically, despite the lasting impact of the 2008 economic crisis and global recession. In developing countries, the middle class now makes up more than 34 percent of total employment – a number that has almost tripled between 1991 and 2015.

However, as the global economy continues to recover we are seeing slower growth, widening inequalities, and not enough jobs to keep up with a growing labour force. According to the International Labour Organization, more than 204 million people were unemployed in 2015.

The Sustainable Development Goals promote sustained economic growth, higher levels of productivity and technological innovation. Encouraging entrepreneurship and job creation are key to this, as are effective measures to eradicate forced labour, slavery and human trafficking. With these targets in mind, the goal is to achieve full and productive employment, and decent work, for all women and men by 2030»²⁸.

Goal 9: Industry, innovation and infrastructure

«Investment in infrastructure and innovation are crucial drivers of economic growth and development. With over half the world population now living in cities, mass transport and renewable energy are becoming ever

²⁸ <https://www1.undp.org/content/brussels/en/home/sustainable-development-goals/goal-8-decent-work-and-economic-growth.html>, (Consulted on April 7, 2020, at 22h30).

more important, as are the growth of new industries and information and communication technologies.

Technological progress is also key to finding lasting solutions to both economic and environmental challenges, such as providing new jobs and promoting energy efficiency. Promoting sustainable industries, and investing in scientific research and innovation, are all important ways to facilitate sustainable development.

More than 4 billion people still do not have access to the Internet, and 90 percent are from the developing world. Bridging this digital divide is crucial to ensure equal access to information and knowledge, as well as foster innovation and entrepreneurship»²⁹.

Goal 10: Reduced inequalities

«Income inequality is on the rise—the richest 10 percent have up to 40 percent of global income whereas the poorest 10 percent earn only between 2 to 7 percent. If we take into account population growth inequality in developing countries, inequality has increased by 11 percent.

Income inequality has increased in nearly everywhere in recent decades, but at different speeds. It's lowest in Europe and highest in the Middle East.

These widening disparities require sound policies to empower lower income earners, and promote economic inclusion of all regardless of sex, race or ethnicity.

²⁹ <https://www1.undp.org/content/brussels/en/home/sustainable-development-goals/goal-9-industry-innovation-and-infrastructure.html>, (Consulted on April 7, 2020, at 22h30).

Income inequality requires global solutions. This involves improving the regulation and monitoring of financial markets and institutions, encouraging development assistance and foreign direct investment to regions where the need is greatest. Facilitating the safe migration and mobility of people is also key to bridging the widening divide»³⁰.

Goal 11: Sustainable cities and communities

«More than half of us live in cities. By 2050, two-thirds of all humanity—6.5 billion people—will be urban. Sustainable development cannot be achieved without significantly transforming the way we build and manage our urban spaces.

The rapid growth of cities—a result of rising populations and increasing migration—has led to a boom in mega-cities, especially in the developing world, and slums are becoming a more significant feature of urban life.

Making cities sustainable means creating career and business opportunities, safe and affordable housing, and building resilient societies and economies. It involves investment in public transport, creating green public spaces, and improving urban planning and management in participatory and inclusive ways»³¹.

³⁰ <https://www1.undp.org/content/brussels/en/home/sustainable-development-goals/goal-10-reduced-inequalities.html>, (Consulted on April 7, 2020, at 22h30).

³¹ <https://www1.undp.org/content/brussels/en/home/sustainable-development-goals/goal-11-sustainable-cities-and-communities.html>, (Consulted on April 7, 2020, at 22h30).

Goal 12: Responsible consumption and production

«Achieving economic growth and sustainable development requires that we urgently reduce our ecological footprint by changing the way we produce and consume goods and resources. Agriculture is the biggest user of water worldwide, and irrigation now claims close to 70 percent of all freshwater for human use.

The efficient management of our shared natural resources, and the way we dispose of toxic waste and pollutants, are important targets to achieve this goal. Encouraging industries, businesses and consumers to recycle and reduce waste is equally important, as is supporting developing countries to move towards more sustainable patterns of consumption by 2030.

A large share of the world population is still consuming far too little to meet even their basic needs. Halving the per capita of global food waste at the retailer and consumer levels is also important for creating more efficient production and supply chains. This can help with food security, and shift us towards a more resource efficient economy»³².

Goal 13: Climate action

«There is no country that is not experiencing the drastic effects of climate change. Greenhouse gas emissions are more than 50 percent higher than in 1990. Global warming is causing long-lasting changes to our climate system, which threatens irreversible consequences if we do not act.

The annual average economic losses from climate-related disasters are in the hundreds of billions of dollars. This is not to mention the human

³² <https://www1.undp.org/content/brussels/en/home/sustainable-development-goals/goal-12-responsible-consumption-and-production.html>, (Consulted on April 7, 2020, at 22h30).

impact of geo-physical disasters, which are 91 percent climate-related, and which between 1998 and 2017 killed 1.3 million people, and left 4.4 billion injured. The goal aims to mobilize US\$100 billion annually by 2020 to address the needs of developing countries to both adapt to climate change and invest in low-carbon development.

Supporting vulnerable regions will directly contribute not only to Goal 13 but also to the other SDGs. These actions must also go hand in hand with efforts to integrate disaster risk measures, sustainable natural resource management, and human security into national development strategies. It is still possible, with strong political will, increased investment, and using existing technology, to limit the increase in global mean temperature to two degrees Celsius above pre-industrial levels, aiming at 1.5°C, but this requires urgent and ambitious collective action»³³.

Goal 14: Life Below Water

«The world's oceans – their temperature, chemistry, currents and life – drive global systems that make the Earth habitable for humankind. How we manage this vital resource is essential for humanity as a whole, and to counterbalance the effects of climate change.

Over three billion people depend on marine and coastal biodiversity for their livelihoods. However, today we are seeing 30 percent of the world's fish stocks overexploited, reaching below the level at which they can produce sustainable yields.

Oceans also absorb about 30 percent of the carbon dioxide produced by humans, and we are seeing a 26 percent rise in ocean acidification since the beginning of the industrial revolution. Marine pollution, an overwhelming

³³ <https://www1.undp.org/content/brussels/en/home/sustainable-development-goals/goal-13-climate-action.html>, (Consulted on April 7, 2020, at 22h30).

majority of which comes from land-based sources, is reaching alarming levels, with an average of 13,000 pieces of plastic litter to be found on every square kilometre of ocean.

The Sustainable Development Goals aim to sustainably manage and protect marine and coastal ecosystems from pollution, as well as address the impacts of ocean acidification. Enhancing conservation and the sustainable use of ocean-based resources through international law will also help mitigate some of the challenges facing our oceans»³⁴.

Goal 15: Life on land

«Human life depends on the earth as much as the ocean for our sustenance and livelihoods. Plant life provides 80 percent of the human diet, and we rely on agriculture as an important economic resource. Forests cover 30 percent of the Earth's surface; provide vital habitats for millions of species, and important sources for clean air and water, as well as being crucial for combating climate change.

Every year, 13 million hectares of forests are lost, while the persistent degradation of dry lands has led to the desertification of 3.6 billion hectares, disproportionately affecting poor communities.

While 15 percent of land is protected, biodiversity is still at risk. Nearly 7,000 species of animals and plants have been illegally traded. Wildlife trafficking not only erodes biodiversity, but creates insecurity, fuels conflict, and feeds corruption.

³⁴ <https://www1.undp.org/content/brussels/en/home/sustainable-development-goals/goal-14-life-below-water.html>, (Consulted on April 7, 2020, at 22h30).

Urgent action must be taken to reduce the loss of natural habitats and biodiversity which are part of our common heritage and support global food and water security, climate change mitigation and adaptation, and peace and security»³⁵.

Goal 16: Peace, justice and strong institutions

«We cannot hope for sustainable development without peace, stability, human rights and effective governance, based on the rule of law. Yet our world is increasingly divided. Some regions enjoy peace, security and prosperity, while others fall into seemingly endless cycles of conflict and violence. This is not inevitable and must be addressed.

Armed violence and insecurity have a destructive impact on a country's development, affecting economic growth, and often resulting in grievances that last for generations. Sexual violence, crime, exploitation and torture are also prevalent where there is conflict, or no rule of law, and countries must take measures to protect those who are most at risk

The SDGs aim to significantly reduce all forms of violence, and work with governments and communities to end conflict and insecurity. Promoting the rule of law and human rights are key to this process, as is reducing the flow of illicit arms and strengthening the participation of developing countries in the institutions of global governance»³⁶.

³⁵ <https://www1.undp.org/content/brussels/en/home/sustainable-development-goals/goal-15-life-on-land.html>, (Consulted on April 7, 2020, at 22h30).

³⁶ <https://www1.undp.org/content/brussels/en/home/sustainable-development-goals/goal-16-peace-justice-and-strong-institutions.html>, (Consulted on April 7, 2020, at 22h30).

Goal 17: Partnerships for the goals

«The Sustainable Development Goals can only be realized with strong global partnerships and cooperation. Official Development Assistance remained steady but below target, at US\$ 147 billion in 2017. While humanitarian crises brought on by conflict or natural disasters continue to demand more financial resources and aid. Many countries also require Official Development Assistance to encourage growth and trade.

The world is more interconnected than ever. Improving access to technology and knowledge is an important way to share ideas and foster innovation. Coordinating policies to help developing countries manage their debt, as well as promoting investment for the least developed, is vital for sustainable growth and development.

The goals aim to enhance North–South and South–South cooperation by supporting national plans to achieve all the targets. Promoting international trade, and helping developing countries increase their exports is all part of achieving a universal rules–based and equitable trading system that is fair and open and benefits all»³⁷.

³⁷ <https://www1.undp.org/content/brussels/en/home/sustainable-development-goals/goal-17-partnerships-for-the-goals.html>, (Consulted on April 7, 2020, at 22h30).

For the Background on the goals: see:

<https://www1.undp.org/content/brussels/en/home/sustainable-development-goals/background.html>

Terminology:

The 17 Sustainable Development Goals:

الأهداف 17 للتنمية المستدامة

Goal 1: End poverty:

القضاء على الفقر

Goal 2: End hunger:

القضاء على الجوع

Goal 3: Good health and well being:

الصحة الجيدة والرفاه

Goal 4: Quality education:

التعليم الجيد

Goal 5: Gender equality:

المساواة بين الجنسين

Goal 6: Clean water and sanitation:

المياه النظيفة والنظافة الصحية

Goal 7: Affordable and clean energy:

طاقة نظيفة وبأسعار معقولة

Goal 8: Decent work and economic growth:

العمل اللائق ونمو الاقتصاد

Goal 9: Industry, innovation and infrastructure:

الصناعة والابتكار والهياكل الأساسية

Goal 10: Reduce inequality:

الحد من أوجه اللامساواة

Goal 11: Sustainable cities and communication:

مدن ومجتمعات محلية مستدامة

Goal 12: Responsible consumption and production:

الاستهلاك والإنتاج المسؤولان

Goal 13: Climate action:

العمل المناخي

Goal 14: Life below water:

الحياة تحت الماء

Goal 15: life on land:

الحياة في البر

Goal 16: Peace justice and strong institutions:

السلام والعدل والمؤسسات القوية

Goal 17: Partnerships for goals:

عقد الشراكات لتحقيق الأهداف

CHAPTER 03

INTELLECTUAL PROPERTY LAW

Introduction:

Definition of Intellectual property law³⁸:

Intellectual property law refers to the laws designed to protect the rights of the owners and creators of intellectual property, which includes inventions, designs, and artistic works. Intellectual property law includes trademark, patent, and copyright laws³⁹.

In this chapter we will see the definition and Convention Establishing the World Intellectual Property Organization (**section1**), the main organs of the World Intellectual Property Organization in (**section2**), Objectives of World Intellectual Property Organization (**section3**), and the categories of intellectual property (**section4**).

Section 1: Definition of the World Intellectual Property Organization

«The World Intellectual Property Organization (WIPO; is one of the 15 specialized agencies of the United Nations (UN). WIPO was created in 1967 "to encourage creative activity, to promote the protection of intellectual property throughout the world»⁴⁰.

³⁸ Dr Aissa Zahia, "The World Intellectual Property Organization (WIPO)", Paper accepted for The National conference on: Institutional protection of intellectual property, Faculty of law, University of Algiers 1, Conference reported to later date cause of world pandemic Corona-virus.

³⁹ <https://www.hg.org/intell.html>, (Consulted on May 12, 2020, at 20h30).

⁴⁰ –1 Food and Agriculture Organization (FAO);

World Intellectual Property Organization currently has 193 member states, administers 26 international treaties, and is headquartered in Geneva, Switzerland.

The Secretariat of the Organization is called the International Bureau. The executive head of the International Bureau is the Director General who is appointed by the WIPO General Assembly and is assisted by two or more Deputy Directors General.

The headquarters of the Organization are in Geneva, Switzerland. The Organization has Liaison Offices in Brazil (Rio de Janeiro), Japan (Tokyo),

-
- 2– International Civil Aviation Organization (ICAO);
 - 3– International Fund for Agricultural Development (IFAD);
 - 4– International Labour Organization (ILO);
 - 5– International Maritime Organization (IMO);
 - 6– International Monetary Fund (IMF);
 - 7– International Telecommunication Union (ITU);
 - 8– United Nations Educational, Scientific and Cultural Organization (UNESCO);
 - 9– United Nations Industrial Development Organization (UNIDO);
 - 10– Universal Postal Union (UPU);
 - 11– World Bank Group (WBG);
 - 12– World Health Organization (WHO);
 - 13– World Intellectual Property Organization (WIPO);
 - 14– World Meteorological Organization (WMO);
 - 15– World Tourism Organization (UNWTO or WTO)

Specialized agencies are autonomous organizations working with the United Nations and each other through the co-ordinating machinery of the United Nations Economic and Social Council at the intergovernmental level, and through the Chief Executives Board for co-ordination (CEB) at the inter-secretariat level/Specialized agencies may or may not have been originally created by the United Nations, but they are incorporated into the United Nations System by the United Nations Economic and Social Council acting under Articles 57 and 63 of the United Nations Charter.

Singapore (Singapore) and the United States of America (at the United Nations in New York) »⁴¹.

«The World Intellectual Property Organization Convention, the constituent instrument of the World Intellectual Property Organization (WIPO), was signed at Stockholm on July 14, 1967, entered into force in 1970 and was amended in 1979. WIPO is an intergovernmental organization that became in 1974 one of the specialized agencies of the United Nations system of organizations»⁴².

Membership in World Intellectual Property Organization is open to any State that is a member of any of the Unions and to any other State satisfying one of the following conditions: it is a member of the United Nations, any of the specialized agencies brought into relationship with the United Nations, or the International Atomic Energy Agency; it is a party to the Statute of the International Court of Justice; or it has been invited by the General Assembly of World Intellectual Property Organization to become a party to the Convention⁴³.

⁴¹ <https://www.wipo.int/portal/en/index.html>, (Consulted on May 12, 2020, at 20h30).

⁴² The origins of World Intellectual Property Organization go back to 1883 and 1886 when the Paris Convention for the Protection of Industrial Property and the Berne Convention for the Protection of Literary and Artistic Works, respectively, were concluded. Both Conventions provided for the establishment of an "International Bureau". The two bureaus were united in 1893 and, in 1970, were replaced by the World Intellectual Property Organization, by virtue of the WIPO Convention, <https://www.wipo.int/about-wipo/en/>

⁴³ The Organization benefits from the privileges and immunities granted to international organizations and their officials in the fulfillment of its objectives and exercise of its

There are no obligations arising from membership of World Intellectual Property Organization concerning other treaties administered by WIPO. Accession to World Intellectual Property Organization is effected by means of the deposit with the Director General of WIPO of an instrument of accession to the WIPO Convention⁴⁴.

Section 2 : The main organs of the World Intellectual Property Organization

The World Intellectual Property Organization Convention establishes three main organs:

a–The the World Intellectual Property Organization General Assembly:

The WIPO General Assembly is composed of the Member States of WIPO which are also members of any of the Unions. Its main functions are, *inter alia*, the appointment of the Director General upon nomination by the Coordination Committee, review and approval of the reports of the Director General and the reports and activities of the Coordination Committee, adoption of the biennial budget common to the Unions, and adoption of the financial regulations of the Organization⁴⁵.

functions, and has concluded a headquarters agreement with the Swiss Confederation to that effect, Ibid.

⁴⁴ Ibid.

⁴⁵ https://www.wipo.int/treaties/en/convention/summary_wipo_convention.html, (Consulted on May 12, 2020, at 20h30).

b– The World Intellectual Property Organization Conference:

The World Intellectual Property Organization Conference is composed of the States party to the WIPO Convention. It is, inter alia, the competent body for adopting amendments to the Convention⁴⁶.

c–The World Intellectual Property Organization Coordination Committee:

«The WIPO Coordination Committee is composed of members elected from among the members of the Executive Committee of the Paris Union and the Executive Committee of the Berne Union.

Its main functions are to give advice to the organs of the Unions, the General Assembly, the Conference, and to the Director General, on all administrative and financial matters of interest to these bodies.

It also prepares the draft agenda of the General Assembly and the draft agenda of the Conference. Where appropriate, the Coordination Committee nominates a candidate for the post of Director General for appointment by the General Assembly»⁴⁷.

⁴⁶ Ibid.

⁴⁷ Ibid.

Section 3: Objectives of the World Intellectual Property

Organization

WIPO's two main objectives are to promote the protection of intellectual property worldwide; and to ensure administrative cooperation among the intellectual property Unions established by the treaties that WIPO administers⁴⁸.

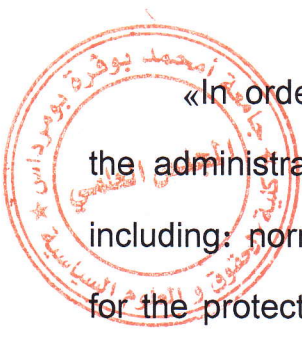
The World Intellectual Property Organization (WIPO) promotes innovation and creativity for the economic, social and cultural development of all countries, through a balanced and effective international intellectual property system⁴⁹.

WIPO is an international organization dedicated to promoting creativity and innovation by ensuring that the rights of creators and owners of IP are protected worldwide, and that inventors and authors are recognized and rewarded for their ingenuity⁵⁰.

⁴⁸ The Agreement between the United Nations and the World Intellectual Property Organization notes in Article 1 that WIPO is responsible for promoting creative intellectual activity and for facilitating the transfer of technology related to industrial property to the developing countries in order to accelerate economic, social and cultural development, subject to the competence and responsibilities of the United Nations and its organs, particularly the United Nations Conference on Trade and Development, the United Nations Development Programme and the United Nations Industrial Development Organization, as well as of the United Nations Educational, Scientific and Cultural Organization and of other agencies within the United Nations system.

⁴⁹ https://www.wipo.int/portal/en/index_carousel_iframe.html, (Consulted on May 12, 2020, at 20h30).

⁵⁰ Ibid.



«In order to attain these objectives, WIPO, in addition to performing the administrative tasks of the Unions, undertakes a number of activities, including: normative activities, involving the setting of norms and standards for the protection and enforcement of intellectual property rights through the conclusion of international treaties; program activities, involving legal and technical assistance to States in the field of intellectual property; international classification and standardization activities, involving cooperation among industrial property offices concerning patent, trademark and industrial design documentation; and registration and filing activities, involving services related to international applications for patents for inventions and for the registration of marks and industrial designs»⁵¹.

«The WIPO Arbitration and Mediation Center provides services for the resolution of international IP disputes between private parties. Such proceedings can include contractual disputes (such as patent and software licenses, trademark coexistence agreements, and research and development agreements) and non-contractual disputes (such as patent infringement). The Center is also recognized as the leading dispute resolution service provider for disputes related to Internet domain names»⁵².

⁵¹ https://www.wipo.int/treaties/en/convention/summary_wipo_convention.html.

⁵² <https://www.wipo.int/amc/en/>

Section 4: The categories of intellectual property

Intellectual property refers to creations of the mind: inventions; literary and artistic works; and symbols, names and images used in commerce. Intellectual property is divided into two categories:

a) Industrial Property:

Industrial property takes a range of forms, including patents for inventions, industrial designs (aesthetic creations related to the appearance of industrial products), trademarks, service marks, layout–designs of integrated circuits, commercial names and designations, geographical indications and protection against unfair competition.

–Definition of Patents:

«A patent is an exclusive right granted for an invention – a product or process that provides a new way of doing something, or that offers a new technical solution to a problem.

A patent provides patent owners with protection for their inventions. Protection is granted for a limited period, generally 20 years.

Patent protection means an invention cannot be commercially made, used, distributed or sold without the patent owner's consent. Patent rights are usually enforced in courts that, in most systems, hold the authority to stop patent infringement. Conversely, a court can also declare a patent invalid upon a successful challenge by a third party.

A patent owner has the right to decide who may – or may not – use the patented invention for the period during which it is protected. Patent owners may give permission to, or license, other parties to use their inventions on mutually agreed terms.

Owners may also sell their invention rights to someone else, who then becomes the new owner of the patent. Once a patent expires, protection ends and the invention enters the public domain. This is also known as becoming off patent, meaning the owner no longer holds exclusive rights to the invention, and it becomes available for commercial exploitation by others»⁵³.

–Definition of trademarks:

«A trademark is a distinctive sign that identifies certain goods or services produced or provided by an individual or a company. Its origin dates back to ancient times when craftsmen reproduced their signatures, or “marks”, on their artistic works or products of a functional or practical nature.

Over the years, these marks have evolved into today’s system of trademark registration and protection. The system helps consumers to identify and purchase a product or service based on whether its specific characteristics and quality – as indicated by its unique trademark – meet their needs»⁵⁴.

⁵³ What is the intellectual property, World Intellectual Property Organization, WIPO Publication No. 450 E, Switzerland, p.5.

⁵⁴Ibid, p.9

–Definition of Industrial Design:

«An industrial design refers to the ornamental or aesthetic aspects of an article. A design may consist of three-dimensional features, such as the shape or surface of an article, or two-dimensional features, such as patterns, lines or color.

Industrial designs are applied to a wide variety of industrial products and handicrafts: from technical and medical instruments to watches, jewelry and other luxury items; from house wares and electrical appliances to vehicles and architectural structures; from textile designs to leisure goods.

To be protected under most national laws, an industrial design must be new or original and nonfunctional. This means that an industrial design is primarily of an aesthetic nature, and any technical features of the article to which it is applied are not protected by the design registration. However, those features could be protected by a patent»⁵⁵.

–Definition of Geographical Indication:

«A geographical indication is a sign used on goods that have a specific geographical origin and possess qualities or a reputation due to that place of origin. Most commonly, a geographical indication consists of the name of the place of origin of the goods.

Agricultural products typically have qualities that derive from their place of production and are influenced by specific local geographical factors,

⁵⁵ Ibid, p.13

such as climate and soil. Whether a sign functions as a geographical indication is a matter of national law and consumer perception.

Geographical indications may be used for a wide variety of agricultural products, such as, for example, “Tuscany” for olive oil produced in a specific area of Italy, or “Roquefort” for cheese produced in that region of France.

The use of geographical indications is not limited to agricultural products. They may also highlight specific qualities of a product that are due to human factors found in the product’s place of origin, such as specific manufacturing skills»⁵⁶.

b) Copyright :

–Definition of copyright:

«Copyright covers literary works (such as novels, poems and plays), films, music, artistic works (e.g., drawings, paintings, photographs and sculptures) and architectural design. Rights related to copyright include those of performing artists in their performances, producers of phonograms in their recordings, and broadcasters in their radio and television programs.»⁵⁷

⁵⁶Ibid, p.15

⁵⁷ Understanding Copyright and Related Rights, World Intellectual Property Organization, WIPO Publication No. 909E, Switzerland, 2016, p.4.

Copyright relates to literary and artistic creations, such as books, music, paintings and sculptures, films and technology-based works (such as computer programs and electronic databases) »”.⁵⁸

«In certain languages, copyright is referred to as **authors’ rights**. Although international law has brought about some convergence, this distinction reflects an historic difference in the evolution of these rights that is still reflected in many copyright systems.

⁵⁸ The Convention lists the following examples of such works:

books, pamphlets and other writings;

lectures, addresses, sermons;

dramatic or dramatico-musical works;

choreographic works and entertainments in dumb show;

musical compositions with or without words;

cinematographic works to which are assimilated works expressed by a process analogous to cinematography;

works of drawing, painting, architecture, sculpture, engraving and lithography;

photographic works to which are assimilated works expressed by a process analogous to photography;

works of applied art;

illustrations, maps, plans, sketches and three-dimensional works relative to geography, topography, architecture or science;

“translations, adaptations, arrangements of music and other alterations of a literary or artistic work,” which “shall be protected as original works without prejudice to the copyright in the original work”; and

“Collections of literary or artistic works such as encyclopedias and anthologies which, by reason of the selection and arrangement of their contents, constitute intellectual creations” – again, the Convention provides that these “shall be protected as such, without prejudice to the copyright in each of the works forming part of such collections.”

The expression copyright refers to the act of copying an original work which, in respect of literary and artistic creations, may be done only by the author or with the author's permission.

The expression authors' rights refers to the creator of an artistic work, its author, thus underlining that, as recognized in most laws, authors have certain specific rights in their creations that only they can exercise, which are often referred to as **moral rights**, such as the right to prevent distorted reproductions of the work. Other rights, such as the right to make copies, can be exercised by third parties with the author's permission, for example, by a publisher who obtains a license to this effect from the author»⁵⁹.

–Rights Protected by Copyright:

«Copyright protects two types of rights. **Economic rights** allow right owners to derive financial reward from the use of their works by others. **Moral rights** allow authors and creators to take certain actions to preserve and protect their link with their work.

The author or creator may be the owner of the economic rights or those rights may be transferred to one or more copyright owners. Many countries do not allow the transfer of moral rights».⁶⁰

⁵⁹ Ibid.

⁶⁰ Ibid, p.9–10

WIPO administers the following international **treaties on copyright and related rights**:

Berne Convention for the Protection of Literary and Artistic Works (1886) ;

Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (1961) (administered with ILO and UNESCO) ;

Geneva Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (1971) ;

–Duration of Copyright

«Copyright protection does not continue indefinitely. Copyright laws provide for a period of time during which the rights of the copyright owner exist and may be exploited. The period or duration of copyright begins from the moment the work is created or, under some national laws, when it is expressed or “fixed” in tangible form. Copyright protection continues, in general, until a certain time after the death of the author.

The purpose of this provision in the law is to enable the author’s successors to benefit economically from exploitation of the work even after the author’s death. In some countries moral rights continue in perpetuity after the end of the term of economic rights

In countries party to the Berne Convention and some other countries, the duration of copyright provided in national law is, as a general rule, the life of the author plus not less than 50 years after the author’s death. There is a trend in a number of countries to lengthen the duration of copyright to the life of the author plus 70 years after the author’s death»⁶¹.

Brussels Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite (1974) ;

WIPO Copyright Treaty (WCT) (1996) ;

WIPO Performances and Phonograms Treaty (WPPT) (1996) ;

Beijing Treaty on Audiovisual Performances (2012, not yet in force) ;

Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled (2013);

⁶¹ The Berne Convention and many national laws also establish periods of protection for works such as anonymous, posthumous and cinematographic works where it is not

Section 5: The principal sources of income of WIPO's regular budget

«The principal sources of income of WIPO's regular budget are the fees paid by the users of the international registration and filing services, and the contributions paid by the governments of Member States.

Each State belongs to one of 14 classes, which determines the amount of its contribution. Class I, with the highest contribution, involves the payment of 25 contribution units, whereas Class Steer, with the lowest contribution, involves the payment of 1/32 of one contribution unit.

By virtue of the unitary contribution system adopted by Member States in 1993, the amount of each State's contribution is the same whether that State is a member only of WIPO, or only of one or more Unions, or of both WIPO and one or more Unions»⁶².

possible to base duration on the life of an individual author. Works that are no longer subject to copyright protection enter the public domain, Ibid, p.19

⁶² https://www.wipo.int/treaties/en/convention/summary_wipo_convention.html.

(Consulted on May 12, 2020, at 21h30).

Terminology:

Intellectual property law: قانون الملكية الفكرية

The World Intellectual Property Organization:

المنظمة العالمية للملكية الفكرية

Patents for inventions: براءات الاختراع

Trademarks: العلامات التجارية

Industrial designs: التصميمات الصناعية

Geographical indications: المؤشرات الجغرافية

Copyright: حقوق المؤلف

Related rights: الحقوق المجاورة

Entered / Comes into force: دخلت حيز التنفيذ

Ratification: التصديق

Promote the protection of intellectual property:

ترقية / تعزيز حماية الملكية الفكرية

National Office of Copyrights and Related Rights:

الديوان الوطني لحقوق المؤلف والحقوق المجاورة

Algerian National Institute of Industrial Property:

المعهد الوطني الجزائري للملكية الصناعية

CHAPTER 04

INTERNATIONAL CRIMINAL COURT

Introduction:

On 17 July 1998, 120 States adopted a statute in Rome – known as the Rome Statute of the International Criminal Court (“the Rome Statute”) – establishing the International Criminal Court (ICC), a permanent international criminal court. It began sittings on July 1, 2002, after 60 countries had ratified the Rome Statute.

Section 1: The contents of the Rome statute of the International Criminal Court⁶³

The contents of Rome Statute are: Preamble, Establishment Of The Court⁶⁴ Jurisdiction, Admissibility And Applicable Law⁶⁵, General Principles Of Criminal Law⁶⁶, Composition And Administration Of The Court⁶⁷, Investigation And Prosecution⁶⁸, The Trial⁶⁹, Penalties⁷⁰, Appeal And Revision⁷¹, International Cooperation And Judicial Assistance⁷², Enforcement⁷³, Assembly Of States Parties⁷⁴, Financing⁷⁵, Final Clauses⁷⁶.

⁶³ Rome Statute of the International Criminal Court, Published by the International Criminal Court ISBN No. 92-9227-227-6 ICC-PIDS-LT-01-002/11_Eng, 2011.

⁶⁴ Part 1. Of the Rome statute, Ibid.

⁶⁵ Part 2. Ibid.

⁶⁶ Part 3. Ibid.

⁶⁷ Part 4. Ibid.

⁶⁸ Part 5. Ibid.

⁶⁹ Part 6. Ibid.

⁷⁰ Part 7. Ibid.

⁷¹ Part 8. Ibid.

⁷² Part 9. Ibid.

⁷³ Part 10. Ibid.

Section 2: The preamble of Rome statute

The States Parties to this Statute,

- **Conscious** that all peoples are united by common bonds, their cultures pieced together in a shared heritage, and concerned that this delicate mosaic may be shattered at any time,
- **Mindful** that during this century millions of children, women and men have been victims of unimaginable atrocities that deeply shock the conscience of humanity,
- **Recognizing** that such grave crimes threaten the peace, security and well-being of the world,
- **Affirming** that the most serious crimes of concern to the international community as a whole must not go unpunished and that their effective prosecution must be ensured by taking measures at the national level and by enhancing international cooperation,
- **Determined** to put an end to impunity for the perpetrators of these crimes and thus to contribute to the prevention of such crimes,
- **Recalling** that it is the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes,
- **Reaffirming** the Purposes and Principles of the Charter of the United Nations, and in particular that all States shall refrain from the threat or use of force against the territorial integrity or political independence of

⁷⁴ Part 11. Ibid.

⁷⁵ Part 12. Ibid.

⁷⁶ Part 13. Ibid.

any State, or in any other manner inconsistent with the Purposes of the United Nations,

- **Emphasizing** in this connection that nothing in this Statute shall be taken as authorizing any State Party to intervene in an armed conflict or in the internal affairs of any State,
- **Determined** to these ends and for the sake of present and future generations, to establish an independent permanent International Criminal Court in relationship with the United Nations system, with jurisdiction over the most serious crimes of concern to the international community as a whole,
- **Emphasizing** that the International Criminal Court established under this Statute shall be complementary to national criminal jurisdictions,
- **Resolved** to guarantee lasting respect for and the enforcement of international justice⁷⁷,

Section 3: Establishment Of The Court

The establishment of the court is organized at the Part 1 of the Rome statute, and in accordance of its **Article 1** : “ An International Criminal Court ("the Court") is hereby established. It shall be a permanent institution and shall have the power to exercise its jurisdiction over persons for the most serious crimes of international concern, as referred to in this Statute, and shall be complementary to national criminal jurisdictions. The jurisdiction

⁷⁷ Preamble of the Rome Statute. was ended by : Have agreed as follows:.....

and functioning of the Court shall be governed by the provisions of this Statute”⁷⁸

And in accordance with the **Article 2** of the Rome statute : “ The Court shall be brought into relationship with the United Nations through an agreement to be approved by the Assembly of States Parties to this Statute and thereafter concluded by the President of the Court on its behalf ⁷⁹.

The seat of the International criminal court shall be established at **The Hague in the Netherlands** ("the host State"). The Court shall enter into a headquarters agreement with the host State, to be approved by the Assembly of States Parties and thereafter concluded by the President of the Court on its behalf. The Court may sit elsewhere, whenever it considers it desirable, as provided in this Statute⁸⁰.

About **the legal status and powers of the court**, it shall have international legal personality. It shall also have such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its purposes.

The Court may exercise its functions and powers, as provided in this Statute, on the territory of any State Party and, by special agreement, on the territory of any other State⁸¹.

⁷⁸ Article 1 – The Court, Rome statute, Op.cit.

⁷⁹ Article 2 – Relationship of the Court with the United Nations, Ibid.

⁸⁰ Article 3/ 1, 2, 3 – Seat of the Court, Ibid.

⁸¹ Article 4/ 1, 2 – Legal status and powers of the Court, Ibid.

Section 4: Jurisdiction, Admissibility And Applicable Law

The Jurisdiction, Admissibility and Applicable Law are organized at the Part 2 of the Rome Statute from Article 5 to Article 21.

a) Crimes within the jurisdiction of the Court

Article 5 – Crimes within the jurisdiction of the Court

The jurisdiction of the Court shall be limited to the most serious crimes of concern to the international community as a whole. The Court has jurisdiction in accordance with this Statute with respect to the following crimes:

1. The crime of genocide⁸²;
2. Crimes against humanity⁸³;

⁸² Article 6 – Genocide:

For the purpose of this Statute, "genocide" means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

1. Killing members of the group;
2. Causing serious bodily or mental harm to members of the group;
3. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
4. Imposing measures intended to prevent births within the group;
5. Forcibly transferring children of the group to another group.

⁸³ Article 7 – Crimes against humanity

“ 1)–For the purpose of this Statute, "crime against humanity" means any of the following acts when committed as part of a widespread or systematic attack directed against any

3. War crimes⁸⁴;

4. The crime of aggression⁸⁵.

In order that the Court exercise its competence, the Rome Statute organized, **the elements of Crimes**, the **Jurisdiction *ratione temporis*** where the Court The Court has jurisdiction only with respect to crimes committed after the entry into force of this Statute. And If a State becomes a Party to the Rome Statute after its entry into force, the Court may exercise its jurisdiction only with respect to crimes committed after the entry into force of this Statute for that State, unless that State has made a declaration under article 12, paragraph 3 of the Rome Statute, **and Preconditions to the exercise of jurisdiction**⁸⁶.

civilian population, with knowledge of the attack: 1–Murder; 2– Extermination; 3– Enslavement; 4–Deportation or forcible transfer of population;5–Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; 6–Torture; 7–Rape, 8–sexual slavery, 9–enforced prostitution, 10–forced pregnancy; 11– enforced sterilization,.....”

⁸⁴ Article 8 – War crimes, Rome statute, Op.cit

Article 8/1: The Court shall have jurisdiction in respect of war crimes in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes.

⁸⁵ Article 8 bis – Crime of aggression, Rome statute, Op.cit

⁸⁶ Articles 9–12, Ibid.

Article 9 – “Elements of Crimes

1. Elements of Crimes shall assist the Court in the interpretation and application of articles 6, 7, 8 and 8 bis. They shall be adopted by a two-thirds majority of the members of the Assembly of States Parties.
2. Amendments to the Elements of Crimes may be proposed by: 1–Any State Party; 2– The judges acting by an absolute majority; 3 –The Prosecutor.

b) Exercise of jurisdiction:

In accordance with Article 13 of Rome Statute : “The Court may exercise its jurisdiction with respect to a crime referred to in article 5 in accordance with the provisions of this Statute if:

1. A situation in which one or more of such crimes appears to have been committed is referred to the Prosecutor by a State Party in accordance with article 14;
2. A situation in which one or more of such crimes appears to have been committed is referred to the Prosecutor by the Security Council acting under Chapter VII of the Charter of the United Nations; or
3. The Prosecutor has initiated an investigation in respect of such a crime in accordance with article 15”.

No investigation or prosecution may be commenced or proceeded with under this Statute for a period of 12 months after the Security Council, in a resolution adopted under Chapter VII of the Charter of the United Nations,

Such amendments shall be adopted by a two-thirds majority of the members of the Assembly of States Parties.

3. The Elements of Crimes and amendments thereto shall be consistent with this Statute”.

For further details about: referral of a situation by a State Party, Prosecutor, Exercise of jurisdiction over the crime of aggression (State referral, proprio motu), Exercise of jurisdiction over the crime of aggression (Security Council referral) and Deferral of investigation or prosecution. Look Articles 14 to 16 of Rome Statute, Ibid.

has requested the Court to that effect; that request may be renewed by the Council under the same conditions.

c) Issues of admissibility:

Article 17 – Issues of admissibility⁸⁷: “

1. Having regard to paragraph 10 of the Preamble and article 1, the Court shall determine that a case is inadmissible where:

1. The case is being investigated or prosecuted by a State which has jurisdiction over it, unless the State is unwilling or unable genuinely to carry out the investigation or prosecution;
2. The case has been investigated by a State which has jurisdiction over it and the State has decided not to prosecute the person concerned, unless the decision resulted from the unwillingness or inability of the State genuinely to prosecute;
3. The person concerned has already been tried for conduct which is the subject of the complaint, and a trial by the Court is not permitted under article 20, paragraph 3;
4. The case is not of sufficient gravity to justify further action by the Court.

2. In order to determine unwillingness in a particular case, the Court shall consider, having regard to the principles of due process recognized by

⁸⁷ Article 17 – Issues of admissibility, Rome Statute of the International Criminal Court,, Op.cit.

international law, whether one or more of the following exist, as applicable:

1. The proceedings were or are being undertaken or the national decision was made for the purpose of shielding the person concerned from criminal responsibility for crimes within the jurisdiction of the Court referred to in article 5;
 2. There has been an unjustified delay in the proceedings which in the circumstances is inconsistent with an intent to bring the person concerned to justice;
 3. The proceedings were not or are not being conducted independently or impartially, and they were or are being conducted in a manner which, in the circumstances, is inconsistent with an intent to bring the person concerned to justice.
3. In order to determine inability in a particular case, the Court shall consider whether, due to a total or substantial collapse or unavailability of its national judicial system, the State is unable to obtain the accused or the necessary evidence and testimony or otherwise unable to carry out its proceedings".⁸⁸

⁸⁸ For further details about: – Preliminary rulings regarding admissibility, and – Challenges to the jurisdiction of the Court or the admissibility of a case , see Article 18 and 19 of Rome statute of International Criminal Court, Op.cit.

d) Applicable law

Article 21 – Applicable law⁸⁹

1. The Court shall apply:

1. In the first place, this Statute, Elements of Crimes and its Rules of Procedure and Evidence;
2. In the second place, where appropriate, applicable treaties and the principles and rules of international law, including the established principles of the international law of armed conflict;
3. Failing that, general principles of law derived by the Court from national laws of legal systems of the world including, as appropriate, the national laws of States that would normally exercise jurisdiction over the crime, provided that those principles are not inconsistent with this Statute and with international law and internationally recognized norms and standards.

2. The Court may apply principles and rules of law as interpreted in its previous decisions.

3. The application and interpretation of law pursuant to this article must be consistent with internationally recognized human rights, and be without any adverse distinction founded on grounds such as gender as defined in article 7, paragraph 3, age, race, colour, language, religion

⁸⁹ Article 21 – Applicable law, Rome statute, Op.cit.

or belief, political or other opinion, national, ethnic or social origin, wealth, birth or other status.

Section 5: General Principles of Criminal Law

The international criminal court exercises its competence with the respect of important general principles of criminal as it is shown at Part 3 of Rome Statute⁹⁰.

Article 22 – Nullum crimen sine lege

1. A person shall not be criminally responsible under this Statute unless the conduct in question constitutes, at the time it takes place, a crime within the jurisdiction of the Court.
2. The definition of a crime shall be strictly construed and shall not be extended by analogy. In case of ambiguity, the definition shall be interpreted in favour of the person being investigated, prosecuted or convicted.
3. This article shall not affect the characterization of any conduct as criminal under international law independently of this Statute.

⁹⁰ See Rome Statute of the International Criminal Court– For more details about:

Article 25 – Individual criminal responsibility.

Article 27 – Irrelevance of official capacity

Article 28 – Responsibility of commanders and other superiors

Article 29 – Non-applicability of statute of limitations

Article 30 – Mental element

Article 31 – Grounds for excluding criminal responsibility

Article 32 – Mistake of fact or mistake of law

Article 33 – Superior orders and prescription of law

Article 23 – Nulla poena sine lege

A person convicted by the Court may be punished only in accordance with this Statute⁹¹.

Article 24 – Non-retroactivity ratione personae

1. No person shall be criminally responsible under this Statute for conduct prior to the entry into force of the Statute.
2. In the event of a change in the law applicable to a given case prior to a final judgement, the law more favourable to the person being investigated, prosecuted or convicted shall apply⁹².

Article 26 – Exclusion of jurisdiction over persons under eighteen

The Court shall have no jurisdiction over any person who was under the age of 18 at the time of the alleged commission of a crime⁹³.

⁹¹ Rome Statute of International Criminal Court, Op.cit.

⁹² Ibid.

⁹³ Ibid.

Section 6: Composition And Administration Of The International Criminal Court⁹⁴

a) Organs of the Court:

In accordance with Article 34 the Organs of the Court are:

“The Court shall be composed of the following organs:

1. The Presidency;
2. An Appeals Division, a Trial Division and a Pre-Trial Division;
3. The Office of the Prosecutor;
4. The Registry ».

b) Article 35 – Service of judges⁹⁵

1. All judges shall be elected as full-time members of the Court and shall be available to serve on that basis from the commencement of their terms of office.
2. The judges composing the Presidency shall serve on a full-time basis as soon as they are elected.
3. The Presidency may, on the basis of the workload of the Court and in consultation with its members, decide from time to time to what extent

⁹⁴ Part 4 , Rome Statute of International Criminal Court, Op.cit.

⁹⁵ Article 35, Ibid.

the remaining judges shall be required to serve on a full-time basis. Any such arrangement shall be without prejudice to the provisions of article 40.

4. The financial arrangements for judges not required to serve on a full-time basis shall be made in accordance with article 49.

c) Article 36 – Qualifications, nomination and election of judges⁹⁶

1. Subject to the provisions of paragraph 2, there shall be 18 judges of the Court.

2.

1. The Presidency, acting on behalf of the Court, may propose an increase in the number of judges specified in paragraph 1, indicating the reasons why this is considered necessary and appropriate. The Registrar shall promptly circulate any such proposal to all States Parties.

2. Any such proposal shall then be considered at a meeting of the Assembly of States Parties to be convened in accordance with article 112. The proposal shall be considered adopted if approved at the meeting by a vote of two thirds of the members of the Assembly of States Parties and shall enter into force at such time as decided by the Assembly of States Parties.

3.

⁹⁶ Article 36, Rome Statute of International Criminal Court, Op.cit.

1. Once a proposal for an increase in the number of judges has been adopted under subparagraph (b), the election of the additional judges shall take place at the next session of the Assembly of States Parties in accordance with paragraphs 3 to 8, and article 37, paragraph 2;
2. Once a proposal for an increase in the number of judges has been adopted and brought into effect under subparagraphs (b) and (c) (i), it shall be open to the Presidency at any time thereafter, if the workload of the Court justifies it, to propose a reduction in the number of judges, provided that the number of judges shall not be reduced below that specified in paragraph 1. The proposal shall be dealt with in accordance with the procedure laid down in subparagraphs (a) and (b). In the event that the proposal is adopted, the number of judges shall be progressively decreased as the terms of office of serving judges expire, until the necessary number has been reached.

3.⁹⁷

1. The judges shall be chosen from among persons of high moral character, impartiality and integrity who possess the qualifications required in their respective States for appointment to the highest judicial offices.

⁹⁷ Article 36/3, Rome Statute of International Criminal Court, Op;cit.

2. Every candidate for election to the Court shall:

1. Have established competence in criminal law and procedure, and the necessary relevant experience, whether as judge, prosecutor, advocate or in other similar capacity, in criminal proceedings; or
2. Have established competence in relevant areas of international law such as international humanitarian law and the law of human rights, and extensive experience in a professional legal capacity which is of relevance to the judicial work of the Court;

3. Every candidate for election to the Court shall have an excellent knowledge of and be fluent in at least one of the working languages of the Court.

4.⁹⁸

1. Nominations of candidates for election to the Court may be made by any State Party to this Statute, and shall be made either:

1. By the procedure for the nomination of candidates for appointment to the highest judicial offices in the State in question; or

⁹⁸ Article 36/4, Rome Statute of International Criminal Court, Op;cit.

2. By the procedure provided for the nomination of candidates for the International Court of Justice in the Statute of that Court.

Nominations shall be accompanied by a statement in the necessary detail specifying how the candidate fulfils the requirements of paragraph 3.

2. Each State Party may put forward one candidate for any given election who need not necessarily be a national of that State Party but shall in any case be a national of a State Party.

3. The Assembly of States Parties may decide to establish, if appropriate, an Advisory Committee on nominations. In that event, the Committee's composition and mandate shall be established by the Assembly of States Parties.

5. For the purposes of the election, there shall be two lists of candidates⁹⁹:

List A containing the names of candidates with the qualifications specified in paragraph 3 (b) (i); and

List B containing the names of candidates with the qualifications specified in paragraph 3 (b) (ii).

A candidate with sufficient qualifications for both lists may choose on which list to appear. At the first election to the Court, at least nine

⁹⁹ Article 36/5, Rome Statute of International Criminal Court, Op;cit.

judges shall be elected from list A and at least five judges from list B. Subsequent elections shall be so organized as to maintain the equivalent proportion on the Court of judges qualified on the two lists.

6. ¹⁰⁰

1. The judges shall be elected by secret ballot at a meeting of the Assembly of States Parties convened for that purpose under article 112. Subject to paragraph 7, the persons elected to the Court shall be the 18 candidates who obtain the highest number of votes and a two-thirds majority of the States Parties present and voting.

2. In the event that a sufficient number of judges is not elected on the first ballot, successive ballots shall be held in accordance with the procedures laid down in subparagraph (a) until the remaining places have been filled.

7. No two judges may be nationals of the same State. A person who, for the purposes of membership of the Court, could be regarded as a national of more than one State shall be deemed to be a national of the State in which that person ordinarily exercises civil and political rights¹⁰¹.

8. ¹⁰²

¹⁰⁰ Article 36/6, Rome Statute of International Criminal Court, Op;cit.

¹⁰¹ Article 36/7, Ibid.

¹⁰² Article 36/8, Ibid.

1. The States Parties shall, in the selection of judges, take into account the need, within the membership of the Court, for:
 1. The representation of the principal legal systems of the world;
 2. Equitable geographical representation; and
 3. A fair representation of female and male judges.
2. States Parties shall also take into account the need to include judges with legal expertise on specific issues, including, but not limited to, violence against women or children.

9. ¹⁰³

1. Subject to subparagraph (b), judges shall hold office for a term of nine years and, subject to subparagraph (c) and to article 37, paragraph 2, shall not be eligible for re-election.
2. At the first election, one third of the judges elected shall be selected by lot to serve for a term of three years; one third of the judges elected shall be selected by lot to serve for a term of six years; and the remainder shall serve for a term of nine years.
3. A judge who is selected to serve for a term of three years under subparagraph (b) shall be eligible for re-election for a full term.

¹⁰³ Article 36/9, Rome Statute of International Criminal Court, Op;cit.



10. Notwithstanding paragraph 9, a judge assigned to a Trial or Appeals Chamber in accordance with article 39 shall continue in office to complete any trial or appeal the hearing of which has already commenced before that Chamber¹⁰⁴.

d) Article 37 – Judicial vacancies¹⁰⁵

1. In the event of a vacancy, an election shall be held in accordance with article 36 to fill the vacancy.
2. A judge elected to fill a vacancy shall serve for the remainder of the predecessor's term and, if that period is three years or less, shall be eligible for re-election for a full term under article 36.

e) Article 38 – The Presidency¹⁰⁶

1. The President and the First and Second Vice-Presidents shall be elected by an absolute majority of the judges. They shall each serve for a term of three years or until the end of their respective terms of office as judges, whichever expires earlier. They shall be eligible for re-election once.
2. The First Vice-President shall act in place of the President in the event that the President is unavailable or disqualified. The Second Vice-President shall act in place of the President in the event that

¹⁰⁴ Article 36/10, Ibid.

¹⁰⁵ Article 37, Rome Statute, Ibid.

¹⁰⁶ Article 38, Ibid.

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 2. Equitable geographical representation; and
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¹⁰³ Article 36/9, Rome Statute of International Criminal Court, Op;cit.



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2. A judge elected to fill a vacancy shall serve for the remainder of the predecessor's term and, if that period is three years or less, shall be eligible for re-election for a full term under article 36.

e) Article 38 – The Presidency¹⁰⁶

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2. The First Vice-President shall act in place of the President in the event that the President is unavailable or disqualified. The Second Vice-President shall act in place of the President in the event that

¹⁰⁴ Article 36/10, Ibid.

¹⁰⁵ Article 37, Rome Statute, Ibid.

¹⁰⁶ Article 38, Ibid.

both the President and the First Vice-President are unavailable or disqualified.

3. The President, together with the First and Second Vice-Presidents, shall constitute the Presidency, which shall be responsible for:

1. The proper administration of the Court, with the exception of the Office of the Prosecutor; and

2. The other functions conferred upon it in accordance with this Statute.

4. In discharging its responsibility under paragraph 3 (a), the Presidency shall coordinate with and seek the concurrence of the Prosecutor on all matters of mutual concern.

f) Article 39 – Chambers¹⁰⁷

1. As soon as possible after the election of the judges, the Court shall organize itself into the divisions specified in article 34, paragraph (b). The Appeals Division shall be composed of the President and four other judges, the Trial Division of not less than six judges and the Pre-Trial Division of not less than six judges. The assignment of judges to divisions shall be based on the nature of the functions to be performed by each division and the qualifications and experience of the judges elected to the Court, in such a way that each division shall contain an appropriate combination of expertise in criminal law and procedure and in international law. The Trial and Pre-Trial Divisions

¹⁰⁷ Article 39, Rome Statute of International Criminal Court, Op;cit.

shall be composed predominantly of judges with criminal trial experience.

2.

1. The judicial functions of the Court shall be carried out in each division by Chambers.

2.

1. The Appeals Chamber shall be composed of all the judges of the Appeals Division;
 2. The functions of the Trial Chamber shall be carried out by three judges of the Trial Division;
 3. The functions of the Pre-Trial Chamber shall be carried out either by three judges of the Pre-Trial Division or by a single judge of that division in accordance with this Statute and the Rules of Procedure and Evidence;
3. Nothing in this paragraph shall preclude the simultaneous constitution of more than one Trial Chamber or Pre-Trial Chamber when the efficient management of the Court's workload so requires.

3.

1. Judges assigned to the Trial and Pre-Trial Divisions shall serve in those divisions for a period of three years, and thereafter until

the completion of any case the hearing of which has already commenced in the division concerned.

2. Judges assigned to the Appeals Division shall serve in that division for their entire term of office.

4. Judges assigned to the Appeals Division shall serve only in that division. Nothing in this article shall, however, preclude the temporary attachment of judges from the Trial Division to the Pre-Trial Division or vice versa, if the Presidency considers that the efficient management of the Court's workload so requires, provided that under no circumstances shall a judge who has participated in the pre-trial phase of a case be eligible to sit on the Trial Chamber hearing that case.

g) Article 40 – Independence of the judges¹⁰⁸

1. The judges shall be independent in the performance of their functions.
2. Judges shall not engage in any activity which is likely to interfere with their judicial functions or to affect confidence in their independence.
3. Judges required to serve on a full-time basis at the seat of the Court shall not engage in any other occupation of a professional nature.
4. Any question regarding the application of paragraphs 2 and 3 shall be decided by an absolute majority of the judges. Where any such

¹⁰⁸ Article 40, Rome Statute of International Criminal Court, Op;cit.

question concerns an individual judge, that judge shall not take part in the decision.

h) Article 41 – Excusing and disqualification of judges¹⁰⁹

1. The Presidency may, at the request of a judge, excuse that judge from the exercise of a function under this Statute, in accordance with the Rules of Procedure and Evidence.

2.

1. A judge shall not participate in any case in which his or her impartiality might reasonably be doubted on any ground. A judge shall be disqualified from a case in accordance with this paragraph if, inter alia, that judge has previously been involved in any capacity in that case before the Court or in a related criminal case at the national level involving the person being investigated or prosecuted. A judge shall also be disqualified on such other grounds as may be provided for in the Rules of Procedure and Evidence.

2. The Prosecutor or the person being investigated or prosecuted may request the disqualification of a judge under this paragraph.

3. Any question as to the disqualification of a judge shall be decided by an absolute majority of the judges. The challenged

¹⁰⁹ Article 41, Rome Statute of International Criminal Court, Op;cit.

judge shall be entitled to present his or her comments on the matter, but shall not take part in the decision.

i) Article 42 – The Office of the Prosecutor¹¹⁰

1. The Office of the Prosecutor shall act independently as a separate organ of the Court. It shall be responsible for receiving referrals and any substantiated information on crimes within the jurisdiction of the Court, for examining them and for conducting investigations and prosecutions before the Court. A member of the Office shall not seek or act on instructions from any external source.
2. The Office shall be headed by the Prosecutor. The Prosecutor shall have full authority over the management and administration of the Office, including the staff, facilities and other resources thereof. The Prosecutor shall be assisted by one or more Deputy Prosecutors, who shall be entitled to carry out any of the acts required of the Prosecutor under this Statute. The Prosecutor and the Deputy Prosecutors shall be of different nationalities. They shall serve on a full-time basis.
3. The Prosecutor and the Deputy Prosecutors shall be persons of high moral character, be highly competent in and have extensive practical experience in the prosecution or trial of criminal cases. They shall have an excellent knowledge of and be fluent in at least one of the working languages of the Court.

¹¹⁰ Article 42, Rome Statute of International Criminal Court, Op;cit.

4. The Prosecutor shall be elected by secret ballot by an absolute majority of the members of the Assembly of States Parties. The Deputy Prosecutors shall be elected in the same way from a list of candidates provided by the Prosecutor. The Prosecutor shall nominate three candidates for each position of Deputy Prosecutor to be filled. Unless a shorter term is decided upon at the time of their election, the Prosecutor and the Deputy Prosecutors shall hold office for a term of nine years and shall not be eligible for re-election.
5. Neither the Prosecutor nor a Deputy Prosecutor shall engage in any activity which is likely to interfere with his or her prosecutorial functions or to affect confidence in his or her independence. They shall not engage in any other occupation of a professional nature.
6. The Presidency may excuse the Prosecutor or a Deputy Prosecutor, at his or her request, from acting in a particular case.
7. Neither the Prosecutor nor a Deputy Prosecutor shall participate in any matter in which their impartiality might reasonably be doubted on any ground. They shall be disqualified from a case in accordance with this paragraph if, inter alia, they have previously been involved in any capacity in that case before the Court or in a related criminal case at the national level involving the person being investigated or prosecuted.
8. Any question as to the disqualification of the Prosecutor or a Deputy Prosecutor shall be decided by the Appeals Chamber.

1. The person being investigated or prosecuted may at any time request the disqualification of the Prosecutor or a Deputy Prosecutor on the grounds set out in this article;
2. The Prosecutor or the Deputy Prosecutor, as appropriate, shall be entitled to present his or her comments on the matter;
9. The Prosecutor shall appoint advisers with legal expertise on specific issues, including, but not limited to, sexual and gender violence and violence against children.

j) Article 43 – The Registry¹¹¹

1. The Registry shall be responsible for the non-judicial aspects of the administration and servicing of the Court, without prejudice to the functions and powers of the Prosecutor in accordance with article 42.
2. The Registry shall be headed by the Registrar, who shall be the principal administrative officer of the Court. The Registrar shall exercise his or her functions under the authority of the President of the Court.
3. The Registrar and the Deputy Registrar shall be persons of high moral character, be highly competent and have an excellent knowledge of and be fluent in at least one of the working languages of the Court.
4. The judges shall elect the Registrar by an absolute majority by secret ballot, taking into account any recommendation by the Assembly of

¹¹¹ Article 43, Rome Statute of International Criminal Court, Op;cit.

States Parties. If the need arises and upon the recommendation of the Registrar, the judges shall elect, in the same manner, a Deputy Registrar.

5. The Registrar shall hold office for a term of five years, shall be eligible for re-election once and shall serve on a full-time basis. The Deputy Registrar shall hold office for a term of five years or such shorter term as may be decided upon by an absolute majority of the judges, and may be elected on the basis that the Deputy Registrar shall be called upon to serve as required.
6. The Registrar shall set up a Victims and Witnesses Unit within the Registry. This Unit shall provide, in consultation with the Office of the Prosecutor, protective measures and security arrangements, counseling and other appropriate assistance for witnesses, victims who appear before the Court, and others who are at risk on account of testimony given by such witnesses. The Unit shall include staff with expertise in trauma, including trauma related to crimes of sexual violence.

Article 44 – Staff¹¹²

1. The Prosecutor and the Registrar shall appoint such qualified staff as may be required to their respective offices. In the case of the Prosecutor, this shall include the appointment of investigators.

¹¹² Article 44, Rome Statute of International Criminal Court, Op;cit.

2. In the employment of staff, the Prosecutor and the Registrar shall ensure the highest standards of efficiency, competency and integrity, and shall have regard, *mutatis mutandis*, to the criteria set forth in article 36, paragraph 8.
3. The Registrar, with the agreement of the Presidency and the Prosecutor, shall propose Staff Regulations which include the terms and conditions upon which the staff of the Court shall be appointed, remunerated and dismissed. The Staff Regulations shall be approved by the Assembly of States Parties.
4. The Court may, in exceptional circumstances, employ the expertise of *gratis* personnel offered by States Parties, intergovernmental organizations or non-governmental organizations to assist with the work of any of the organs of the Court. The Prosecutor may accept any such offer on behalf of the Office of the Prosecutor. Such *gratis* personnel shall be employed in accordance with guidelines to be established by the Assembly of States Parties.

Article 45 – Solemn undertaking¹¹³

Before taking up their respective duties under this Statute, the judges, the Prosecutor, the Deputy Prosecutors, the Registrar and the Deputy Registrar shall each make a solemn undertaking in open court to exercise his or her respective functions impartially and conscientiously.

¹¹³ Article 45, Rome Statute of International Criminal Court, Op;cit.

Article 46 – Removal from office¹¹⁴

1. A judge, the Prosecutor, a Deputy Prosecutor, the Registrar or the Deputy Registrar shall be removed from office if a decision to this effect is made in accordance with paragraph 2, in cases where that person:
 1. Is found to have committed serious misconduct or a serious breach of his or her duties under this Statute, as provided for in the Rules of Procedure and Evidence; or
 2. Is unable to exercise the functions required by this Statute.
2. A decision as to the removal from office of a judge, the Prosecutor or a Deputy Prosecutor under paragraph 1 shall be made by the Assembly of States Parties, by secret ballot:
 1. In the case of a judge, by a two-thirds majority of the States Parties upon a recommendation adopted by a two-thirds majority of the other judges;
 2. In the case of the Prosecutor, by an absolute majority of the States Parties;
 3. In the case of a Deputy Prosecutor, by an absolute majority of the States Parties upon the recommendation of the Prosecutor.
3. A decision as to the removal from office of the Registrar or Deputy Registrar shall be made by an absolute majority of the judges.

¹¹⁴ Article 46, Rome Statute of International Criminal Court, Op;cit.

4. A judge, Prosecutor, Deputy Prosecutor, Registrar or Deputy Registrar whose conduct or ability to exercise the functions of the office as required by this Statute is challenged under this article shall have full opportunity to present and receive evidence and to make submissions in accordance with the Rules of Procedure and Evidence. The person in question shall not otherwise participate in the consideration of the matter.

Article 47 – Disciplinary measures¹¹⁵

A judge, Prosecutor, Deputy Prosecutor, Registrar or Deputy Registrar who has committed misconduct of a less serious nature than that set out in article 46, paragraph 1, shall be subject to disciplinary measures, in accordance with the Rules of Procedure and Evidence.

Article 48 – Privileges and immunities¹¹⁶

1. The Court shall enjoy in the territory of each State Party such privileges and immunities as are necessary for the fulfilment of its purposes.
2. The judges, the Prosecutor, the Deputy Prosecutors and the Registrar shall, when engaged on or with respect to the business of the Court, enjoy the same privileges and immunities as are accorded to heads of diplomatic missions and shall, after the expiry of their terms of office, continue to be accorded immunity from legal process of every kind in

¹¹⁵ Article 47, Rome Statute of International Criminal Court, Op;cit.

¹¹⁶ Article 48, Ibid.

respect of words spoken or written and acts performed by them in their official capacity.

3. The Deputy Registrar, the staff of the Office of the Prosecutor and the staff of the Registry shall enjoy the privileges and immunities and facilities necessary for the performance of their functions, in accordance with the agreement on the privileges and immunities of the Court.
4. Counsel, experts, witnesses or any other person required to be present at the seat of the Court shall be accorded such treatment as is necessary for the proper functioning of the Court, in accordance with the agreement on the privileges and immunities of the Court.
5. The privileges and immunities of:
 1. A judge or the Prosecutor may be waived by an absolute majority of the judges;
 2. The Registrar may be waived by the Presidency;
 3. The Deputy Prosecutors and staff of the Office of the Prosecutor may be waived by the Prosecutor;
 4. The Deputy Registrar and staff of the Registry may be waived by the Registrar.

Article 49 – Salaries, allowances and expenses¹¹⁷

The judges, the Prosecutor, the Deputy Prosecutors, the Registrar and the Deputy Registrar shall receive such salaries, allowances and expenses as may be decided upon by the Assembly of States Parties. These salaries and allowances shall not be reduced during their terms of office.

Section 7: Official and working languages

Article 50 – Official and working languages¹¹⁸

1. The official languages of the Court shall be Arabic, Chinese, English, French, Russian and Spanish. The judgements of the Court, as well as other decisions resolving fundamental issues before the Court, shall be published in the official languages. The Presidency shall, in accordance with the criteria established by the Rules of Procedure and Evidence, determine which decisions may be considered as resolving fundamental issues for the purposes of this paragraph.
2. The working languages of the Court shall be English and French. The Rules of Procedure and Evidence shall determine the cases in which other official languages may be used as working languages.
3. At the request of any party to a proceeding or a State allowed to intervene in a proceeding, the Court shall authorize a language other than English or French to be used by such a party or State, provided that the Court considers such authorization to be adequately justified.

¹¹⁷ Article 49, Rome Statute of International Criminal Court, Op;cit.

¹¹⁸ Article 50, Ibid.

Section 8: Investigation and Prosecution¹¹⁹

Investigation and prosecution are organized at Part 5 from Article 53 to Article 61 of Rome Statute, and the rights of persons during an investigation comes in accordance with Article 55 of the Same Statute:

Article 55 – Rights of persons during an investigation: “

1. In respect of an investigation under this Statute, a person:
 1. Shall not be compelled to incriminate himself or herself or to confess guilt;
 2. Shall not be subjected to any form of coercion, duress or threat, to torture or to any other form of cruel, inhuman or degrading treatment or punishment;

¹¹⁹ Investigation and prosecution are organized from Article 53 to Article 61 of Rome Statute Rome Statute of International Criminal Court:

Article 53 – Initiation of an investigation;

Article 54 – Duties and powers of the Prosecutor with respect to investigations;

Article 55 – Rights of persons during an investigation;

Article 56 – Role of the Pre-Trial Chamber in relation to a unique investigative opportunity;

Article 57 – Functions and powers of the Pre-Trial Chamber;

Article 58 – Issuance by the Pre-Trial Chamber of a warrant of arrest or a summons to appear;

Article 59 – Arrest proceedings in the custodial State;

Article 60 – Initial proceedings before the Court;

Article 61 – Confirmation of the charges before trial;

3. Shall, if questioned in a language other than a language the person fully understands and speaks, have, free of any cost, the assistance of a competent interpreter and such translations as are necessary to meet the requirements of fairness; and
 4. Shall not be subjected to arbitrary arrest or detention, and shall not be deprived of his or her liberty except on such grounds and in accordance with such procedures as are established in this Statute.
2. Where there are grounds to believe that a person has committed a crime within the jurisdiction of the Court and that person is about to be questioned either by the Prosecutor, or by national authorities pursuant to a request made under Part 9, that person shall also have the following rights of which he or she shall be informed prior to being questioned:
1. To be informed, prior to being questioned, that there are grounds to believe that he or she has committed a crime within the jurisdiction of the Court;
 2. To remain silent, without such silence being a consideration in the determination of guilt or innocence;
 3. To have legal assistance of the person's choosing, or, if the person does not have legal assistance, to have legal assistance assigned to him or her, in any case where the interests of justice so require, and without payment by the person in any

such case if the person does not have sufficient means to pay for it; and

4. To be questioned in the presence of counsel unless the person has voluntarily waived his or her right to counsel.”

Section 9: Financing of the Court

Financing of the Court is organized at Part 12 from Article 113 to Article 118 of Rome Statute ¹²⁰ :

a) Article 113 – Financial Regulations

“Except as otherwise specifically provided, all financial matters related to the Court and the meetings of the Assembly of States Parties, including its Bureau and subsidiary bodies, shall be governed by this Statute and the Financial Regulations and Rules adopted by the Assembly of States Parties”.

b) Article 114 – Payment of expenses

“Expenses of the Court and the Assembly of States Parties, including its Bureau and subsidiary bodies, shall be paid from the funds of the Court”.

¹²⁰ Article 113 – Financial Regulations, Rome Statute of International Criminal Court, Op;cit.

Article 114 – Payment of expenses,

Article 115 – Funds of the Court and of the Assembly of States Parties,

Article 116 – Voluntary contributions,

Article 117 – Assessment of contributions,

Article 118 – Annual audit.

c)Article 115 – Funds of the Court and of the Assembly of States Parties

“The expenses of the Court and the Assembly of States Parties, including its Bureau and subsidiary bodies, as provided for in the budget decided by the Assembly of States Parties, shall be provided by the following sources:

1. Assessed contributions made by States Parties;
2. Funds provided by the United Nations, subject to the approval of the General Assembly, in particular in relation to the expenses incurred due to referrals by the Security Council”.

d)Article 116 – Voluntary contributions

“Without prejudice to article 115, the Court may receive and utilize, as additional funds, voluntary contributions from Governments, international organizations, individuals, corporations and other entities, in accordance with relevant criteria adopted by the Assembly of States Parties”.

e) Article 117 – Assessment of contributions

The contributions of States Parties shall be assessed in accordance with an agreed scale of assessment, based on the scale adopted by the United Nations for its regular budget and adjusted in accordance with the principles on which that scale is based.

f) Article 118 – Annual audit

The records, books and accounts of the Court, including its annual financial statements, shall be audited annually by an independent auditor¹²¹.

Section 10: Final Clauses of the Rome Statute

Final clauses are organized at Part 13 from Article 119 to Article 128 of Rome Statute¹²².

In accordance with Article 119/1&2 concerning Settlement of disputes; any dispute concerning the judicial functions of the Court shall be settled by the decision of the Court. And any other dispute between two or more States Parties relating to the interpretation or application of this Statute which is not settled through negotiations within three months of their commencement shall be referred to the Assembly of States Parties. The Assembly may itself seek to settle the dispute or may make recommendations on further means of settlement of the dispute, including referral to the International Court of Justice in conformity with the Statute of that Court.

¹²¹ Rome Statute of International Criminal Court, Op;cit.

¹²² Article 119 – Settlement of disputes;

Article 120 – Reservations;

Article 121 – Amendments ;

Article 122 – Amendments to provisions of an institutional nature;

Article 123 – Review of the Statute;

Article 124 – Transitional Provision;

Article 125 – Signature, ratification, acceptance, approval or accession;

Article 126 – Entry into force;

Article 127 – Withdrawal;

Article 128 – Authentic texts.

And in accordance with Article 120 of the Rome Statute, No reservations may be made to this Statute¹²³.

a)Article 127 – Withdrawal

1. A State Party may, by written notification addressed to the Secretary-General of the United Nations, withdraw from this Statute. The withdrawal shall take effect one year after the date of receipt of the notification, unless the notification specifies a later date.
2. A State shall not be discharged, by reason of its withdrawal, from the obligations arising from this Statute while it was a Party to the Statute, including any financial obligations which may have accrued. Its withdrawal shall not affect any cooperation with the Court in connection with criminal investigations and proceedings in relation to which the withdrawing State had a duty to cooperate and which were

¹²³ Article 125 of Rome Statute – Signature, ratification, acceptance, approval or accession

1. This Statute shall be open for signature by all States in Rome, at the headquarters of the Food and Agriculture Organization of the United Nations, on 17 July 1998. Thereafter, it shall remain open for signature in Rome at the Ministry of Foreign Affairs of Italy until 17 October 1998. After that date, the Statute shall remain open for signature in New York, at United Nations Headquarters, until 31 December 2000.
2. This Statute is subject to ratification, acceptance or approval by signatory States. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations.
3. This Statute shall be open to accession by all States. Instruments of accession shall be deposited with the Secretary-General of the United Nations.

commenced prior to the date on which the withdrawal became effective, nor shall it prejudice in any way the continued consideration of any matter which was already under consideration by the Court prior to the date on which the withdrawal became effective.

b)Article 128 – Authentic texts

The original of this Statute, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

In Witness Where of, the undersigned, being duly authorized there to by their respective Governments, have signed this Statute¹²⁴.

¹²⁴ Rome Statute of International Criminal Court, Op;cit.

Terminology:

The International Criminal Court:

Establishment Of The Court: إنشاء المحكمة

Preamble: الديباجة

Jurisdiction, Admissibility And Applicable Law:

الاختصاص والمقبولية والقانون الواجب التطبيق

The States Parties: الدول الأعضاء

General Principles of Criminal Law: المبادئ العامة للقانون الجنائي

Composition and Administration of the Court: تكوين وإدارة المحكمة

Independence of the judges: استقلالية القضاة

The Office of the Prosecutor: مكتب المدعي العام

The Registry: قلم المحكمة

Privileges and immunities: الامتيازات والحصانات

Official languages: اللغات الرسمية

Investigation and prosecution: التحقيق والمقاضاة

Rights of persons during an investigation: حقوق المتهم أثناء التحقيق

Final Clauses: الأحكام الختامية

Withdrawal : الانسحاب

CHAPTER 05

INVESTMENT IN ALGERIA

Chapter 05: Investment in Algeria

Introduction:

Any corporate body or natural person, resident or nonresident could invest in Algeria ¹²⁵ . And in accordance with Algerian law ¹²⁶ the administrative and advertising procedures to establish a company are:

a) Setting up of a company by: Drawing up of authenticated memorandum of association at a notary; and Publication of memorandum of association in the official bulletin of legal advertisements; and Registration in trade registers within two months following the setting up of the company.

b) Declaration of existence: It must be made at the Inspectorate of Taxes territorially competent, within thirty (30) days from the beginning of the activity.

c) Foreign trader card (if need be): It is issued by services in charge of regulations of the province territorially competent.

¹²⁵ Companies belonging to persons:

Individual company;

General partnership;

Limited partnership;

Joint venture.

Capital companies – minimum issued capital :

Joint stock company: 1 000 000 Dinars;

Limited liability company: 100 000 Dinars;

Sole ownership with limited liability: 100 000 Dinars;

Partnership limited by shares: 1 000 000 Dinars.

¹²⁶ As Commercial law, and Law N°16-09 of 03/08/2016 related to investment promotion, JORA N° 46, of 03/08/2016.

Lot of institutions has been established to facilitate investment in Algeria such as National Agency of Invest Development (**section1**), The One Stop Shop (**section2**), and Advantages are given for companies to invest in Algeria (**section3**).

Section 1: National Agency of Investment Development

1-Definition of the National Agency of Investment Development:

The national agency of investment development (ANDI) is a government agency in charge of the promotion of investment in Algeria,

The agency was established by the Ordinance N° 01-03 of 20/08/2001 relating to investment development, and was created in the framework of first generation reforms in Algeria during the nineties, the Agency in charge of investment experienced evolutions aiming at adapting to change of economic and social situation of the country and aims at promoting, accompanying and making the investment easier¹²⁷.

Before ANDI there was initially APSI Agency of Promotion, Support and Follow-up of Investment from 1993 to 2001¹²⁸.

¹²⁷ Ordinance N° 01-03 of 20/08/2001 relating to investment development, JORA N° 47 of 22/08/2001.

–Ordinance N° 06-08 of 15/07/2006 modifying and completing the ordinance N°01-03 of 20/08/2001 relating to investment development, JORA N° 47; of 19/07/2006.

¹²⁸ Transition from APSI to ANDI resulted in changes of institutional and statutory frameworks as: Creation of National Council of Investment; Creation of regional structures of the Agency which contribute in consultation with regional development local players;

2– The missions of national agency of investment development:

Among the many missions of ANDI, we can mention those of:

- *Promoting investment in Algeria;
- *Issuing decisions granting benefits within the framework of the device to encourage investment;
- *Assisting investors in the implementation of investment projects
- *Investments registration;
- *Investment promotion in Algeria and abroad;
- *Territorial opportunities and potentials promotion;
- *Business practice facilitation, and companies' incorporation and projects implementation follow up;
- *Investors assistance, support and accompaniment;
- *Information and awareness in the business community;
- *Qualification of the projects, their evaluation and the establishment of the investment agreement to be submitted to the National Investment Council for approval¹²⁹.

Establishment of interdepartmental committee of appeal, Clarification of roles of different interveners in the investment process, Revision of incentive system to investment, Simplification of advantages procedures ... <http://www.andi.dz/Index.php/en/a-propos>.

¹²⁹ Article 21 of Ordinance N° 01-03 of 20/08/2001, relating to investment development, Op.cit.

3–: Strategic economic sectors

The strategic economic sectors for investment in Algeria are:

- Agriculture Sector;
- Fishing and aquaculture sector;
- Industry Sector;
- Tourism Sector;
- Health sector;
- Transport sector;
- Renewable Energy Sector;
- ICT sector (Information and Communication Technologies) ;
- Mining Sector.

Section 2: The one stop shop:

1: Presentation of the one stop shop:

The Decentralized One Stop shop is a local dismemberment of the National Agency of Investment Development at the local level¹³⁰. Established at the wilaya level, it includes, besides the officers of the Agency itself, the representatives of the administrations intervening at one time or another in the course of the investment, namely for the formalities related to:

- companies incorporation and registration,
- approvals and permits including building permits,

¹³⁰ Articles 23–27 of Ordinance N° 01–03 of 20/08/2001, relating to investment development, Op.cit. And Article 26 of Law N°16–09 of 03/08/2016 related to investment promotion, Op.cit.

- benefits related to investment

As regards, it is in charge of the investor reception and his registration file, and the issue of the certificate relating thereto, as well as of the receipt of the files related to the services provided by the administrations and bodies represented within the various centers, their delivery to the concerned departments and their finalization¹³¹.

2: The role of the one stop shop:

«The role of the decentralized one stop shop is to facilitate and simplify the legal procedures for companies' incorporation and investment projects implementation.

For this purpose, the representatives of administrations and agencies who constitute the one stop shop, are responsible for issuing up, directly at their level, required documents and provide administrative services related to the implementation of the investment. They are also responsible for intervening at the central and local administrations or agencies of origin to raise any difficulties encountered by investors.

And in order to ensure the effectiveness of the one stop shop action and make it a real instrument of simplification and facilitation towards investors, rearrangements were introduced to enable it to set itself up, as an essential space for the implementation and development of investment projects»¹³².

¹³¹ <http://www.andi.dz/index.php/en/guichet-unique>, (consulted on May 27,2020, at 21H00).

¹³² <http://www.andi.dz/index.php/en/guichet-unique/role>, (consulted on May 27,2020, at 21H00).

The services provided by the One stop shop, are no longer limited to simple information but extend to the completion of all required formalities, thanks to the delegation of power of effective action, decision and signature granted by the concerned administrations and agencies to their representatives within the one stop shop¹³³.

3: The composition of the one stop shop:

The decentralized one-stop shop located in each Wilaya, comprises the following four centers:

a- The Benefits Management Center

The Benefits Management Center Is responsible for managing, except the cases provided for in article 35 of Law No. 16-09, referred to above, the various advantages and incentives setup for investment, by the legislation in force¹³⁴.

As such, the Benefits Management Center:

«- shall, within a period not exceeding forty-eight (48) hours, stamp the list of goods and services, that are eligible for the benefits, and the list extract, constituting the contributions in kind;

- proceeds to the treatment the modification requests of the above-mentioned lists;

¹³³ Ibid.

¹³⁴ <http://www.andi.dz/index.php/en/guichet-unique/composition>. (consulted on May 27,2020, at 21H00).

- authorizes, under the conditions provided for by the regulations under the Law No. 16-09, the investments assignments and transfers and receives the declarations relating thereto, when these operations concern one or more isolated assets¹³⁵;
- grants VAT exemptions on the acquisition of goods and services, included in the goods and services list, benefiting from tax advantages;
- draws up the minutes of operation starting up, with a view to the benefit of the advantages or the final closure of the investment file;
- deals in cooperation with the customs authorities, the requests for non-transferability lifting property acquired under privileged conditions and notify the decisions relating thereto;
- establishes the half-yearly statement of the connection between investments of which the effects of the registration have expired and the minutes of the operation starting up;
- gives formal notice to investors who have not complied with the obligation to draw up the minutes of operation starting up;
- issues notices of forfeiture of investments benefits rights under its jurisdiction and, where appropriate, withdraws them;
- performs all tasks related to its missions»¹³⁶.

¹³⁵ Ibid.

¹³⁶ Ibid.

b. The formalities fulfillment Center

«The formalities fulfillment Center is responsible for providing services related to the companies' establishment formalities and projects realization. It groups together, in one and a same space, the services directly responsible for the execution of the procedures related to activities access and exercise and the projects implementation, in particular the declarations, notifications or requests required for authorization from the competent authorities»¹³⁷.

«In addition to the Agency executives, the formalities fulfillment center includes the representatives of the Communal People's Assembly of the region where the decentralized one stop shop is located, the national center for trade register, urban planning, the environment, labor and social insurance fund for employed and self-employed persons.

– The representative of the Agency shall register the investments and shall notify the registration certificates. He is responsible for the treatment of all requests for modification of the investment registration certificate and for extending the time-limits relating thereto.

– The representative of the national center of trade register has to deliver, on the course of the day, the certificate of non anteriority of denomination. He shall forthwith deliver the provisional receipt enabling the investor to complete the necessary formalities for his investment implementation.

¹³⁷ <http://www.andi.dz/index.php/en/guichet-unique/composition>, (consulted on May 27,2020, at 21H00).

– The representative of town planning is responsible for assisting the investor in the formalities fulfillment for obtaining the building permit and other authorizations relating to the right to build. He receives the files in relation to his attributions and personally ensures the follow-up until the end»¹³⁸.

«–The representative of environment is responsible for informing the investor about the regional spatial planning scheme, the impact studies and the major hazards and risks. He also assists the investor in obtaining the required permits in matters of environmental protection. He receives files in connection with his powers and duties, and personally ensures the follow-up until the end.

– The representative of employment informs investors about labor legislation and regulations. He ensures the relationship with the structure in charge of delivering work permits and any document required by the legislation and regulations in force, with a view to reach a decision as soon as possible. He is also responsible for collecting job offers from investors and presenting candidates for the proposed jobs. He also collects applications for authorization and work permits, sends them to the structures concerned and follows their processing until a final decision is taken»¹³⁹.

«–The representative of the Communal People's Assembly is responsible for the legalization of all necessary documents for the investment file

¹³⁸ Ibid.

¹³⁹ Ibid.

constitution in accordance with the regulations in force. The legalization of the documents takes place forthwith»¹⁴⁰.

«– The representatives of the social security bodies are responsible for issuing forthwith the employer's certificates of staff variation, the employers and employees registration updating as well as any other documents related to their competence»¹⁴¹.

c. The Companies establishment Support Center

The Companies establishment Support Center Is responsible for assisting and supporting the establishment and development of enterprises. It provides to eligible investments under the provisions of Law No. 16–09, an information, training and support service¹⁴²:

«–Regarding information, it ensures a role of communication and provision of all technical, economic and statistical information on all aspects of the proposed project.

–Regarding training, it organizes training cycles for the benefit of the project owners, concerning all stages of the project.

–Regarding accompaniment, it provides support services from the project's idea until its implementation stage. In this respect, it develops a local service

¹⁴⁰ <http://www.andi.dz/index.php/en/guichet-unique/composition>, (consulted on May 27,2020, at 21H00), Op.cit.

¹⁴¹ Ibid.

¹⁴² Ibid.

for the benefit of the project owners during the business plan elaboration and the project assembly»¹⁴³.

d. The territorial promotion center

The territorial promotion center is in charge, in close collaboration with the local authorities in its constituency, of the contribution to the setting up and implementation of a strategy for the activities diversification and enrichment of the Wilaya, where is located the project, through the mobilization of its resources and its energies¹⁴⁴.

In this regards, the Territorial Promotion Center is responsible for¹⁴⁵:

- «– developing, in particular through studies, the best possible acknowledge of the local economy, its potential and forces to enabling local authorities to create a favorable environment to private investment and investors, to take decisions based on data that reflect the reality of the concerned territory;
- identifying, disseminating and ensuring to investors, the promotion of investment opportunities and specific local projects, and setting up a data bank that allows investors to take acknowledge about the different opportunities and potentialities of each sector of the local economy;
- developing and suggesting to the local authorities, an investment promotion plan of the concerned wilaya, designing, elaborating and implementing the capital attractiveness actions necessary for its realization;
- keeping, in close collaboration with the concerned administrations and bodies, a data bank on the land availability of the projects location wilaya;

¹⁴³ <http://www.andi.dz/index.php/en/guichet-unique/composition>, Op.cit.

¹⁴⁴ Ibid.

¹⁴⁵ Ibid.

- assessing the local investment climate and the business environment, identifying obstacles and suggesting to the concerned authorities measures to lift them;
- setting up a business and partnerships relationship service between domestic and foreign investors;
- Implementing post–investment following up service for the benefit of already existing investors»¹⁴⁶.

Section 3: The Advantages of investment in Algeria:

The investment projects in Algeria¹⁴⁷ may enjoy from tax exemptions and reductions, depending on the project location and impact on the economic and social development, three levels of advantages are provided for this aim:

1: The common advantages to all eligible investments

a) Projects implemented in the north:

The kinds of advantages for projects implemented in the north include:

¹⁴⁶ Ibid.

¹⁴⁷ Lot of decrees has been promulgated for the investment sector such as:

- Executive Decree N°19–166 of 29/05/2019 on the composition, organization and functioning of the Appeals Board competent in the field of the investment promotion, JORA N° 37; of 09/06/2019.
- Executive Decree N°19–149 of 29/04/2019 on the investments operating phase starting, JORA N° 31; du 12/05/2019.
- Executive Decree N°17–100 of 05/03/2017 laying down the conditions and procedures for the exercise of the vehicles production and assembly, JORA N°16 of 08/03/2017.

«– the Implementation period such as: exemption from customs duties on imported goods, directly involved in the investment implementation; exemption from the transfer duty and land advertisement fees on all property acquisitions made as part of the investment concerned; Exemption from registration duties on acts of corporations and capital increases¹⁴⁸.

– The Exploitation period: For period of (3) years after the operation start up report, drawn up by the tax authorities at the behest of the investor»¹⁴⁹:

b/ Projects implemented in the South:

Projects implemented in the South includes the highlands and areas whose development requires a particular contribution of the State¹⁵⁰,

¹⁴⁸<http://www.andi.dz/index.php/en/regimes-d-avantages>, (consulted on May 27,2020, at 21H00).

¹⁴⁹ It includes : – Tax exemption on companies profits (IBS);

– Exemption from the tax on the turnover (TAP);

– 50% deduction on the annual rental fee amount set by the state property department, Ibid.

¹⁵⁰ To discover the areas to be developed that are concerned by this scheme:

All The wilayates of the South, some wilayates of the highlands and some municipalities of some wilayates of the highlands.

Zones concerned by the derogatory scheme

Are eligible for special advantages of the state, investment realized in the wilayas of the South and the High lands.

In the wilaya of the South, the regions to which are applied the specific benefits are: wilaya of Adrar, Biskra, Bechar, El Oued, Ghardaïa; Illizi; Laghouat; Ouargla, Tamanrasset,Tindouf.

In the wilaya the Highlands, the regions to which are applied the specific advantages are:

I– All the municipalities of the following wilaya : Batna; Djelfa; El Bayadh; Khenchela; M'sila; Nâama; Saida; Tébessa; Tiaret.

«The advantages include the Implementation period, such as: exemption from customs duties on imported goods directly involved in the investment implementation, exemption from transfer tax, subject to payment, on real estate acquisitions made within the framework of the investment, Reduction of the annual rental fee amount set by the state property department, on the land concession, for the investment projects implementation¹⁵¹.

The advantages include also the exploitation period and for ten years, tax exemption on companies profits (IBS), exemption from the tax on the turnover (TAP), 50% deduction on the annual rental fee amount set by the state property department»¹⁵².

2: The additional advantages to the privileged and/or jobs creating activities:

«Concerning the additional advantages to the privileged and/or jobs creating activities, there are particular taxes and financial incentives introduced by the legislation in force, for tourist, industrial and agricultural activities, which can not be cumulated with the advantages of the Investment Promotion Law provisions.

Il– some municipalities of the following wilayates: Bouira; Bordj Bou Arreridj; Medea; Mila; Oum El Bouaghi; Sétif ;Sidi Bel Abbes; Souk Ahras; Tlemcen; Tissemsilt., <http://www.andi.dz/index.php/en/regimes-d-avantages?id=769>

¹⁵¹ <http://www.andi.dz/index.php/en/regimes-d-avantages>, (consulted on May 27,2020, at 21H00), Op.cit.

¹⁵² Ibid.

In this case the promoter benefits from the most advantageous incentive measure, for investments, implemented out of areas to be promoted, and generating more than one hundred (100) permanent jobs, the duration of tax exemption during the exploitation period is five (05) years»¹⁵³.

3:The exceptional advantages to investments bringing a particular interest for the national economy

«The exceptional advantages to investments bringing a particular interest for the national economy include for the Implementation period: All the common advantages for the implementation period, granting, according to the legislation in force, of exemptions or reduction of customs duties, taxes, and any other imposition with fiscal character, granting of subsidies, aids or financial supports, as well as any facilitation measures likely to be granted,, Possibility, after the CNI agreement, of the implementation period advantages transfer from the investor to contracting parties, in charge of the investment implementation, for the investor»¹⁵⁴.

And «for the exploitation period: extension for a period of up to ten (10) years, of the duration of the common advantages granted during the exploitation period, granting of the duty-free purchase scheme for goods and materials used in the production of goods benefiting from the value added tax exemption»¹⁵⁵.

¹⁵³ Ibid.

¹⁵⁴ Ibid.

¹⁵⁵ Ibid.

Terminology :

National Agency of Investment Development:

الوكالة الوطنية لتطوير الاستثمار

The missions of national agency of investment development:

مهام الوكالة الوطنية لتطوير الاستثمار

Strategic economic sectors: القطاعات الاقتصادية الإستراتيجية:

The one stop shop: الشباك الوحيد

The Benefits Management Center: مركز تسيير المزايا

The formalities fulfillment Center: مركز استقاء الإجراءات

The Companies establishment Support Center:

مركز الدعم لإنشاء المؤسسات

The territorial promotion center: مركز الترقية الإقليمية

The Advantages of investment in Algeria: مزايا الاستثمار في الجزائر

The common advantages to all eligible investments:

المزايا المشتركة للاستثمارات المؤهلة

The additional advantages to the privileged and/or jobs creating activities:

المزايا الإضافية للأنشطة المتميزة و/أو التي تنشأ فرص عمل

The exceptional advantages to investments bringing a particular interest for the national economy:

المزايا الاستثنائية لفائدة الاستثمارات ذات الأهمية الخاصة للاقتصاد الوطني

CHAPTER 06

ELECTRONIC

GOVERNMENT

Chapter 06: Electronic Government

Introduction:

In this chapter we will give the Definition of the electronic government (or e-Government) (**section 1**), the E-government's advantages (**section 2**), and the e-government disadvantages (**section 3**).

Section1: Definition of the Electronic government (or e-Government)

We find many definitions about the electronic government such as:
«Electronic government (or e-Government) is the application of Information and Communication Technologies (ICTs) to government functions and procedures with the purpose of increasing efficiency, transparency and citizen.

«This definition demonstrates how e-Government uses ICTs as a support tool in the development of good governance. The appropriate application of e-Government allows for higher levels of effectiveness and efficiency in governmental tasks, improvement of processes and procedures, increases the quality of public services, also improves the use of information in the decision-making processes and allows for better communication among different governmental offices»¹⁵⁶.

«E-Government (from electronic government, also known as e-Gov, digital government, online government or in a certain context

¹⁵⁶ About e-government, Organization of American State, e-government program, [http://portal.oas.org/portal/sector/sap/departamentoparalagesti%C3%B3n%C3%ABlica efectiva/npa/sobreprogramadeegobierno/tabid/811/default.aspx?language=en-us](http://portal.oas.org/portal/sector/sap/departamentoparalagesti%C3%B3n%C3%ABlica%20efectiva/npa/sobreprogramadeegobierno/tabid/811/default.aspx?language=en-us), (consulted on July 17,2020 at 19H00).

transformational government) refers to the use of internet technology as a platform for exchanging information, providing services and transacting with citizens, businesses, and other arms of government»¹⁵⁷.

«E-Government may be applied by the legislature, judiciary, or administration, in order to improve internal efficiency, the delivery of public services, or processes of democratic governance. Learn more in: Investigating Enterprise Application Integration Adoption in the Local Government Authorities, E-government is the electronic provision of governmental information and services 24 hours per day, seven days per week»¹⁵⁸.

«Electronic government (e-Government) is referring to the use of information technology to provide government services online, which aims to provide faster and better services for stakeholders. It can be divided into four basic categories, viz. Government to Citizen (G2C), Government-to-Business (G2B), Government-to-Government (G2G), and Government-to-Employee (G2E) »¹⁵⁹.

«Is a platform through which the government interacts with its citizens and business entities for the sake of exchange of information, public services and participatory democracy through the use of ICT platforms», and it is also known as «The use of electronic devices, information and communication

¹⁵⁷ <https://igi-global.com/dictionary/electronic-government-e-government/9385>, (consulted on July 17,2020 at 19H00).

¹⁵⁸ Ibid.

¹⁵⁹ Ibid.

technologies (ICTs) to provide public services to citizens and organizations»¹⁶⁰.

Section2: E–government’s advantages

«The e–government’s ultimate objective is offering enhanced portfolio of public services in an efficient and cost–effective way to citizens. The e–government also could provide more transparency for the government because it enables the public to be informed about what government is working on and the policies which are enforced»¹⁶¹.

«The primary benefit would be replacing and optimizing the Paper Based System while implementing electronic government. That could save lots of time, money and also environment in return due to reducing paper consumption, it could also promote better communications between government and business sectors. For example e–procurement as a subsidiary of e–government services could facilitate communication between G2G and B2B that this will allow smaller businesses to compete with bigger companies in public tenders. Hence the benefit of e–government could be creating open and transparent market and a stronger economy»¹⁶².

Section 3: The e–government disadvantages

E–government is not all about advantages but it also has some disadvantages, too.

¹⁶⁰ Ibid.

¹⁶¹ <https://www.ao-itc.de/what-is-e-government-and-why-it-is-important/>, (consulted on July 17,2020 at 19H00).

¹⁶² Ibid.

The primary disadvantages of e-government is «the absence of public Internet access for all citizens, reliability of the published information on the web by the governmental agencies, and also capabilities of government and its agencies which can affect public opinions potentially»¹⁶³.

There are also some other disadvantages for e-government which are as below:

«Higher surveillance and monitoring: Once government implement e-government, people will be compelled to communicate with it on a wider scale electronically. As the government receives more and more information about its citizens, this could possibly lead to a lack of privacy for civilians.

Being too costly: Implementing, maintaining and optimizing e-government is not cheap and requires to spend lots of money.

Inaccessibility for all: e-government couldn't be accessible by all including those who are living in distant regions, or have low rates of literacy and income on the poverty line»¹⁶⁴.

¹⁶³ Ibid.

¹⁶⁴ Ibid.

CHAPTER 07

CYBERCRIME

CHAPTER 07:CYBERCRIME

Introduction

In this Chapter we will give the definition of cybercrime (**Section 1**), the general types of cybercrimes (**Section 2**), and the Cybercrime prevention (**Section 3**).

Section 1: Definition of cybercrime

There is no universally accepted definition of cybercrime. However, the following definition includes elements common to existing cybercrime definitions. «Cybercrime is an act that violates the law, which is perpetrated using information and communication technology (ICT) to either target networks, systems, data, websites and/or technology or facilitate a crime»¹⁶⁵.

«Cybercrime differs from traditional crime in that it "knows no physical or geographic boundaries" and can be conducted with less effort, greater ease, and at greater speed than traditional crime»¹⁶⁶.

«Cybercrime can be perpetrated by individuals, groups, businesses, and nation-states. While these actors may use similar tactics (e.g., using malicious software) and attack similar targets (e.g., a computer system), they have different motives and intent for committing cybercrime»¹⁶⁷

¹⁶⁵ <https://www.unodc.org/e4j/cybercrime/>(consulted on July 23,2020 at 19H00).

¹⁶⁶ Ibid.

¹⁶⁷ Ibid.

For further read :

Section 2: General types of cybercrimes

There is lot of types of cybercrimes such as:

- Offences against the confidentiality, integrity and availability of computer data and systems;
- Computer-related offences;
- Content-related offences¹⁶⁸.

Section 3: Cybercrime prevention

Cybercriminals often use both technical and social approaches to commit crime. Some types of cybercrime are difficult to prevent, however,

Goodman, Marc D. and Brenner, Susan W. The Emerging Consensus on Criminal Conduct in Cyberspace. *International Journal of Law and Information Technology*, Vol. 10, No. 2, (2002). p. 139–223;

Jaishankar, K. (Ed.). *Cyber criminology: Exploring Internet crimes and criminal behavior*. CRC Press.

¹⁶⁸ <https://www.unodc.org/e4j/cybercrime/>

For computer-related offences we could find:

- Computer-related fraud or forgery;
- Computer-related identity offences;
- Sending or controlling sending of spam;
- Computer-related copyright or trademark offences;
- Computer-related acts causing personal harm;
- Computer-related solicitation or "grooming" of children

For further read:

- Barclay, Corlane. Cybercrime and legislation: a critical reflection on the Cybercrimes Act, 2015 of Jamaica. *Commonwealth Law Bulletin*, Vol. 43(1), (2017). 77–107;
- Berliner, Lucy and Jon R. Conte The process of victimization: A victims' perspective. *Child Abuse & Neglect*, Vol. 14(1), (1990)., 29–40.

technology users can take certain actions to protect themselves (to an extent) from cybercrime¹⁶⁹.

«Europol (2018) provides numerous public awareness and prevention guides on its website. However, even small actions can make a big difference. Below are some tips to consider when accessing the Internet:

- Keep your operating system and installed software up-to-date;
- Regularly uninstall software that you no longer use;
- Use an anti-virus programme from a reputable company;
- Do not download software, movies or music from sharing sites – these very often have malware;
- Do not download attachments or click on links from senders you do not recognize;
- Do not enter personal information in unknown websites;
- Confirm the correct website when entering financial information»¹⁷⁰.

¹⁶⁹ <https://www.unodc.org/e4j/cybercrime/>(consulted on July 17,2020 at 19H00).

¹⁷⁰ Ibid.

Bibliography

Bibliography:

1) –Legal texts:

a)Constitutions:

1– Law n°16–01 of 26 Jumada Al Ouwla 1437H corresponding to 6 March 2016, which includes the constitutional amendment, Official Journal of the Republic of Algeria n°14 of 27 Jumada Al Ouwla 1437H corresponding to 7 March 2016.(Arabic version).

2–Presidential Decree No. 20–442 of Jumada Al Ouwla 15, 1442, corresponding to December 30, 2020, relating to the issuance of the constitutional amendment, ratified in a referendum of November 1, 2020, in the Official Journal of the People's Democratic Republic of Algeria, the official Journal No. 82 dated 15 Jumada Al Ouwla 1442, corresponding to December 30, 2020. .(Arabic version).

B) Laws and Ordinances:

1–Law N°16–09 of 03/08/2016related to investment promotion, JORA N° 46, of 03/08/2016.

2–Ordinance N° 01–03 of 20/08/2001 relating to investment development, JORA N° 47 of 22/08/2001.

3–Ordinance N° 06–08 of 15/07/2006modifying and completing the ordinance N°01–03 of 20/08/2001 relating to investment development, JORA N° 47; of 19/07/2006.

c) Executive Decrees

1– Executive Decree N°19–166 of 29/05/2019 on the composition, organization and functioning of the Appeals Board competent in the field of the investment promotion, JORA N° 37; of 09/06/2019.

2– Executive Decree N°19–149 of 29/04/2019 on the investments operating phase starting, JORA N° 31; of 12/05/2019.

3– Executive Decree N°17–100 of 05/03/2017 laying down the conditions and procedures for the exercise of the vehicles production and assembly, JORA N°16 of 08/03/2017.

2)– Books :

1–Annan K: Towards a Sustainable Future. New York: the American Museum of Natural History's Annual Environmental Lecture. 2002.

2–Hinrichsen, Don. Our Common Future: A Reader's Guide. The 'Brundtland Report' Explained. London: Earthscan Ltd., 1987.

3– International Criminal Court Rome Statute of the International Criminal Court, Published by the International Criminal Court ISBN No. 92–9227–227–6 ICC–PIDS–LT–01–002/11_Eng, 2011.

4–Jaishankar, K. (Ed.). Cyber criminology: Exploring Internet crimes and criminal behavior. CRC Press.

5–United Nations, The United Nations Convention on the Law of the Sea (A historical perspective), United Nations Division for Ocean Affairs and the Law of the Sea. Retrieved 30 April 2009.

6–Von Schirnding, Y. The World Summit on Sustainable Development: reaffirming the centrality of health. *Global Health* 1, 8 (2005).

7–WIPO, What is the intellectual property, World Intellectual Property Organization, WIPO Publication No. 450 E, Switzerland.

8–WIPO, Understanding Copyright and Related Rights, World Intellectual Property Organization, WIPO Publication No. 909E, Switzerland, 2016.

9–Wood, H. W. "The United Nations World Charter for Nature: The Developing Nations' Initiative to Establish Protections for the Environment." *Ecology Law Quarterly* 977 (1985).

3) –Articles:

1–Barclay, Corlane. Cybercrime and legislation: a critical reflection on the Cybercrimes Act, 2015 of Jamaica. *Commonwealth Law Bulletin*, Vol. 43(1), (2017). 77–107;

2– Berliner, Lucy and Jon R. Conte The process of victimization: A victims' perspective. *Child Abuse & Neglect*, Vol. 14(1), (1990)., 29–40.

3–Goodman, Marc D. and Brenner, Susan W. The Emerging Consensus on Criminal Conduct in Cyberspace. *International Journal of Law and Information Technology*, Vol. 10, No. 2, (2002). p. 139–223.

4–Ivanova, Maria. "Designing the United Nations Environment Programme: A Story of Compromise and Confrontation." *International Environmental Agreements* 7 (2007): 337–61.

4)–National and international forums:

1-Dr AISSA Zahia , Introduction to the Convention on the Elimination of All Forms of Discrimination against Women, The National Forum on: The CEDAW Agreement and its Impact on Algerian Legislation, Faculty of Law and Political Science, University of M'hamed Bougara Boumerdes, 5 and 6 February 2020.

2-Dr AISSA Zahia, “The World Intellectual Property Organization (WIPO)”, Paper accepted for The National conference on: Institutional protection of intellectual property, Faculty of law, University of Algiers 1, Conference reported to later date cause of world pandemic Corona–virus.

5)–United Nations reports:

– United Nations World Commission on Environment and Development, ed. Report of the World Commission on Environment and Development: Our Common Future. Oxford: Oxford University Press, 1987.

6)–Electronic bibliography:

www.un.org

<https://www.un.org/en/conferences/environment/stockholm1972>

https://www.un.org/Depts/los/convention_agreements/convention_historical_perspective.htm

<https://www.un.org/en/conferences/environment/rio1992>.

[https://www.undp.org/content/undp/en/home/librarypage/mdg/the-Millennium Development- goals/report -2015.html](https://www.undp.org/content/undp/en/home/librarypage/mdg/the-Millennium-Development-goals/report-2015.html)

<https://www.undp.org/content/undp/en/home/sustainable-development-goals/background.html>

<https://www.un.org/sustainabledevelopment/>

[https://www.undp.org/content/undp/en/home/sustainable-de velopment-goals.html](https://www.undp.org/content/undp/en/home/sustainable-development-goals.html)

<https://www1.undp.org/content/brussels/en/home/sustainable-development-goals/goal-1-no-poverty.html>

<https://www1.undp.org/content/brussels/en/home/sustainable-development-goals/goal-2-zero-hunger.html>

<https://www1.undp.org/content/oslo-governancecentre/en/home/sustainable-development-goals/goal-3-good-health-and-well-being.html>

<https://www1.undp.org/content/brussels/en/home/sustainable-development-goals/goal-4-quality-education.html>

<https://www1.undp.org/content/brussels/en/home/sustainable-development-goals/goal-5-gender-equality.html>

<https://www1.undp.org/content/brussels/en/home/sustainable-development-goals/goal-6-clean-water-and-sanitation.html>,

<https://www1.undp.org/content/brussels/en/home/sustainable-development-goals/goal-7-affordable-and-clean-energy.html>,

<https://www1.undp.org/content/brussels/en/home/sustainable-development-goals/goal-8-decent-work-and-economic-growth.html>

<https://www1.undp.org/content/brussels/en/home/sustainable-development-goals/goal-9-industry-innovation-and-infrastructure.html>,

<https://www1.undp.org/content/brussels/en/home/sustainable-development-goals/goal-10-reduced-inequalities.html>,

<https://www1.undp.org/content/brussels/en/home/sustainable-development-goals/goal-11-sustainable-cities-and-communities.html>

<https://www1.undp.org/content/brussels/en/home/sustainable-development-goals/goal-12-responsible-consumption-and-production.html>

<https://www1.undp.org/content/brussels/en/home/sustainable-development-goals/goal-13-climate-action.html>

<https://www1.undp.org/content/brussels/en/home/sustainable-development-goals/goal-14-life-below-water.html>,

<https://www1.undp.org/content/brussels/en/home/sustainable-development-goals/goal-15-life-on-land.html>,

<https://www1.undp.org/content/brussels/en/home/sustainable-development-goals/goal-16-peace-justice-and-strong-institutions.html>

<https://www1.undp.org/content/brussels/en/home/sustainable-development-goals/goal-17-partnerships-for-the-goals.html>

<https://www1.undp.org/content/brussels/en/home/sustainable-development-goals/background.html>

<https://www.hg.org/intell.html>

<https://www.wipo.int/portal/en/index.html>

<https://wipo.int/about-wipo/en/>

https://www.wipo.int/treaties/en/convention/summary_wipo_convention.html.

https://www.wipo.int/portal/en/index_carousel_iframe.html

<https://www.wipo.int/amc/en/>

<http://www.andi.dz/index.php/en/guichet-unique>

<http://www.andi.dz/index.php/en/guichet-unique/role>

<http://www.andi.dz/index.php/en/guichet-unique/composition>.

<http://www.andi.dz/index.php/en/regimes-d-avantages>

About e-government, Organization of American State, e-government program,

<http://portal.oas.org/portal/sector/sap/departamentoparalagesti%C3%B3np%C3%ABlicaefectiva/npa/sobreprogramadeegobierno/tabid/811/default.aspx?language=en-us>.

<https://igi-global.com/dictionary/electronic-government-e-government/9385>

<https://www.ao-itc.de/what-is-e-government-and-why-it-is-imporatant/>

<https://www.unodc.org/e4j/cybercrime/>

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