

The Legal Framework for Mineral Exploration under Algerian Law: An Analytical Study of Law No. 25-12 on Regulation of Mining Activities

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Abstract

Mineral exploration is of paramount importance; and the Algerian legislature has therefore dedicated a series of legal provisions to it under Law No.25-12 regulating mining activities. As it constitutes the preliminary stage through which mineral resources are identified and their quantities, quality and economic viability are determined, given that they are a limited and non-renewable natural resources, enabling the competent authorities to make decisions regarding their exploitation. Mining exploration is divided into two stages: Mining prospecting and Mining Exploration; however, these may only be carried out under a legal authorisation issued by The National Agency for Mining Activities, which grants a licence for mining prospecting, whilst mining exploration is carried out under a permit, in order to define the scope of the rights granted to the holder and their obligations, thereby ensuring a balance between freedom of investment in the mining sector, the protection of public mining assets, environmental conservation, and compliance with health and safety regulations, so as to strike a balance between the requirements of investment and economic development, environmental conservation, and the rational and sustainable exploitation of these natural resources.

Keywords: *mining research, mineral resources, mining prospecting, mining exploration.*

Introduction

Mineral resources are among the most important natural resources underpinning natural development in its various economic and social dimensions, owing to their significant strategic and economic value. They represent a fundamental source of raw materials required for numerous manufacturing and extractive industries, they also contribute to industrial and energy security, as well as enhancing the competitiveness of the national economy. Furthermore, they play a role in attracting investment, creating employment opportunities and fostering regional development, particularly in areas rich in mineral resources. They also constitute a significant source of public revenue through taxes, royalties and exploitation proceeds.

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Algeria is a country rich in diverse mineral resources, on which it relies heavily in its development policy; therefore, the legislature has established a legal framework that strikes a balance between the objectives of economic development and the protection of natural resources; namely under Law No.25-12 on the regulation of mining activities, which repealed Law No. 14-05 containing the Mining Code, whilst keeping its regulatory provisions in force until new provisions are issued, Article3 thereof stipulates that mineral and fossil resources, whether discovered or undiscovered, located on the national land surface and subsoil or in maritime zones, are public property and belong to the nation, over which the State exercises its sovereignty or sovereign rights. The State shall therefore ensure their management from the perspective of sustainable development and valorisation within the framework of the conditions set out in this Article, as these mineral resources are non-renewable natural resources that are subject to depletion; the legislator has sought to establish a legal framework governing the various mining activities relating to them, whether their exploration, exploitation or valorisation.

Mineral exploration is a fundamental preliminary stage in the mining process; it precedes the exploitation phase. Its aim is to identify mineral sites and deposits of mineral or fossilised materials, and to determine their extent and geological characteristics, as well as estimate their reserves and assess their exploitability and economic viability. Mineral exploration therefore contributes to ensuring the sound management of mineral resources, rationalising their exploitation and limiting ill-considered or irrational exploitation. This is carried out within the framework of the procedures, conditions and controls laid down by mining legislation, so as to strike a balance between the requirements of economic and social development and the protection of natural resources, whilst ensuring that environmental protection requirements are met and sustainable development is achieved. Consequently, the effectiveness of the mining sector and the success of its policies are closely linked to the efficient organisation and conduct of mining exploration within a comprehensive legal and institutional framework.

In light of the above, the study of the legal framework governing mineral exploration activities has several objectives that we seek to achieve, primarily to identify all the legal provisions enacted by the Algerian legislature to regulate the exploration of mineral resources of all kinds, as well as to examine how the Algerian legislature has struck a balance between encouraging investment in the mining sector to achieve national economic and social development, and protecting mineral resources in accordance with environmental protection requirements and the imperatives of sustainable development. This is achieved through an analysis of Law No.25-12 on the regulation of mining activities; to achieve the objectives set out in this study, we pose the following research question: What legal provisions has the legislator enacted in Law No.25-12 to regulate mining exploration for mineral resources in a manner that ensures the achievement and preservation of economic development?

To answer this research question, we rely on the descriptive and analytical approaches, as these are considered the most appropriate for such legal studies. We have also divided the study into two main sections: first, we examine the concept of mineral exploration and its regulatory framework; second, we analyse the implications of granting a mining concession or licence to carry out mineral exploration.

Section One: The Concept of Mining Exploration and its Regulations

To understand the regulations governing the practice of mining exploration for mineral resources, it is first necessary to understand the concept of mining exploration and then to clarify the conditions under which such activities may be carried out.

Definition of Mining Exploration

Mineral exploration comprises the range of geological and geophysical activities and studies aimed at identifying the geological structure of the earth, which enables the discovery and location of mineral or fossilised materials, as well as the determination of their type, characteristics, form and potential for economic exploitation. Mining exploration aims to identify a mining site, assess its economic viability and determine the conditions for its exploitation; it is the stage preceding the mining operation itself. Once completed, a decision is taken based on the results obtained, either to proceed with the activity or to discontinue it.

Referring to Law No.25-12 on the regulation of mining activities, we find that the Algerian legislature has not provided a definition of 'mining exploration'; the same applies to Law No.14-05, which contained the repealed Mining Code. The text merely states in Article 5 that mining exploration consists of prospecting and exploration activities. As we also find in Article 11, 'mining exploration' for mineral sites and deposits of mineral or fossilised materials is divided into two stages, namely:

Mining Prospecting: which consists of topographical, geological and geophysical surveys, as well as site reconnaissance and other preliminary investigations of minerals present on the Earth's surface, with a view to determining the mineral properties and geological characteristics of a parcel of land

Mineral Exploration: which involves carrying out geological and geophysical surveys relating to geological structures, internal geology and resource estimation, through surface drilling, prospecting and borehole drilling, as well as analysing the physical and chemical properties of minerals, in addition to mineralisation experiments, defining the valuation method and conducting economic feasibility studies for the development of the deposit and bringing it into production, whilst taking into account aspects relating to environmental protection and post-mining management.

Based on the foregoing, the Algerian legislator has not provided a definition of mining exploration activity; rather, it has merely defined its two stages, namely mining prospecting and mining exploration. From this, we conclude that mining exploration is a series of studies carried out on specific land areas and takes place in two stages: during the prospecting stage, topographical, geological and geophysical surveys are conducted, along with site reconnaissance and other preliminary investigations into minerals present on the earth's surface. The aim is to determine the mineral properties and geological characteristics of the land parcel. During the mineral exploration phase, geological and geophysical surveys are carried out relating to geological structure, internal geology and resource estimation, through surface drilling, trenching and borehole drilling, as well as analysing the physical and chemical properties of minerals, conducting mineralisation tests, defining the valuation method and carrying out economic feasibility studies. This is done with a view to developing the deposit so that it can be brought into production, whilst taking into account aspects relating to environmental protection and post-mining management.

It should be noted in this regard that all surveys and studies carried out in any area, whether large or small, for the prospecting or exploration of the mineral resources under consideration, may only be conducted pursuant to a licence or authorisation granted by the competent authority and in accordance with the procedures and conditions required by law. The Algerian legislature has stipulated in Article 51 of Law No.25-12 on the regulation of mining activities that activities involving the prospecting for mineral or fossilised materials are considered commercial activities, to be carried out on the basis of a mining title or licence in accordance with the provisions of this law and the legislation in force. Furthermore, the legislator stipulates in Article 59 that prospecting activities may only be carried out under mining licences, specifying that exploration activities for mines or quarries must be carried out under licence, which is a type of mining title, whilst mining exploration activities must be carried out under a permit, which is type of mining licence.

From the foregoing, it is clear that the Algerian legislator has distinguished between the names of the documents authorising the pursuit of exploration activities; specifically, a licence is granted for prospecting for mines, and the legislator has defined the mining licence in Article 5 of Law No.25-12 on the regulation of mining activities as an administrative document issued by the competent administrative authorities authorising the pursuit of the specified mining activity. It also grants a licence for the exploration of mines or quarries, which is a mining title; the legislator has also defined this in the same Article 5 as a licence issued by the National Agency for Mining Activities granting the right to carry out exploration activities, and this is referred to as an exploration licence. This definition is vague and does not treat it as an administrative document such as a prospecting licence, despite the fact that both are issued by the National Agency for Mining Activities, which, according to Article 39 of Law No.25-12 on the regulation of mining activities, is considered to be an independent administrative authority with legal personality and financial autonomy, established under Article 37 of Law No.14-05, which comprises the Mining Law, consequently, all documents it issues are administrative documents.

Regulations Governing the Conduct of Mineral Exploration Activities

The Algerian legislature has set out in Law No.25-12 on the regulation of mining activities the conditions necessary for carrying out mining prospecting activities; whilst there are conditions common to both mining prospecting and exploration, each has its own specific conditions, taking into account the particular nature of each given the difference in type of activity carried out.

General Conditions for Carrying Out Mining Exploration Activities

Given that mining exploration is divided into two stages, namely prospecting and mining exploration, there are general conditions common to both, as specified by the law, for obtaining a prospecting licence or a mining exploration licence, which are as follows:

Qualifications required of a person legally entitled to submit an application to carry out mineral exploration activities: the person submitting an application for a prospecting licence or an exploration licence for mines or quarries must be a legal person governed by Algerian law or foreign law. The application must therefore be accompanied by a copy of the company's articles of association, a copy of the commercial register and any other document necessary to establish the identity of the applicant.

Consequently, the applicant must be an Algerian or foreign company specialising in mining prospecting or exploration activities and cannot be a natural person.

Submission of an application to the competent authority: in order to carry out mining research activities, whether prospecting or exploration, an application must be submitted by a legally qualified person to the National Agency for Mining Activities. The application must be made on the form approved for the mining research activity in question, prospecting or exploration, and submitted in four copies, accompanied by the necessary documents for each activity. In the case of an application relating to an area covering several wilayates, the number of copies shall be multiplied by the number of wilayates covered by the application. The National Agency for Mining Activities shall receive the file and issue a receipt. It shall then verify the physical presence of the required documents and notify the applicant either of the acceptance of the file for examination or of a list of missing documents that must be submitted within two months. It shall examine the complete and compliant files, which must cover, in terms of content, all technical, economic and environmental aspects, in order to reach a decision.

It should be noted in this regard that, pursuant to Article 64 of Law No.25-12 on the regulation of mining activities, the preparation of applications for mining concessions and licences requires that all studies be carried out by state-accredited consultancy firms, expert firms or experts specialising in geological and mining studies.

Concerning the planned prospecting and exploration work require aerial surveying, photogrammetry or aerial photography, the National Agency for Mining Activities must, prior to issuing the mining concession or licence, consult the Ministry of National Defence ; as the National Agency for Mining Activities cannot take the decision on its own, given the specific nature of the mining sector compared to other economic sectors, furthermore, it is obliged to monitor investors' activities at every stage, as this concerns public national property which must not be put at risk.

Demonstration of technical and financial capacity: no person may undertake mining activities unless they possess the necessary technical and financial capacity to carry them out to the highest standard. To demonstrate technical capacity and mining expertise, the application must be accompanied by documents, certificates and professional references for the company's staff responsible for overseeing and managing exploration work, as well as a list of exploration works carried out and/or participated in over the last three years, with a brief description of the most significant works completed, in addition to description of the technical resources planned for carrying out the requested mining activity and any other relevant documentation where appropriate. In addition to the site's technical data sheet the file must include a topographical map on a scale of 1:25.000 or 1:50.000 for northern regions of the country, and at a scale of 1:200.000 for the southern regions delineating the perimeter of the area covering the indicator(s) or locations of the targeted mineral or fossil materials. As regards proof of financial capacity, the investor must submit financial statements for the last three financial years

Preparation of the mining exploration plan: the legislator stipulates in Article 140 of Law No.25-12 on the regulation of mining activities that an application for mining prospecting licence or mining or

quarry exploration licence must be accompanied by a mining exploration plan, including a detailed timetable for the programme of works to be carried out. The mining exploration plan refers to the work programmes relating to mining exploration operations under a mining prospecting licence or a mining or quarry exploration licence, together with the budget allocated to it, such as the exploration plan is subject to review.

Determination of the boundaries of the area granted by the National Agency for Mining Activities: when issuing a mining prospecting licence or a mining exploration licence, the Agency must specify the boundaries of the area granted for the conduct of the specified mining exploration activity, as well as the mineral or mineralised material(s) concerned, as it cannot cover all mineral or mineralised materials present in the area and consequently, the activity may not be carried out on materials not specified; otherwise, the activity shall be deemed unlawful.

The boundaries of the granted area shall consist of multiples of adjacent squares, each measuring one hectare, and shall share at least one common side; the perimeter of this area shall be delineated by vertical plans of unlimited extent and depth, based on the sides of a square, rectangle or closed polygon, with the vertices expressed in the Universal Transverse Mercator (UTM) coordinate system, the basic unit for measuring the area granted for prospecting or exploration. It consists of a square measuring one hectare, defined by the Universal Transverse Mercator (UTM) coordinate system, in accordance with the grid system established by the National Agency for Mining Activities.

Signing the terms and conditions booklet: this is known as the ‘terms and conditions booklet’ and is a standardised document containing a set of general and specific conditions relating to the nature of the activity, as well as the obligations and rights set out in the Mining Law and its implementing regulations. The Algerian legislature has stipulated in Article 62 of Law No.25.12 that the granting of any mining title or licence is subject to the applicant signing a terms and conditions booklet, by which they undertake to comply with the general and specific conditions and obligations set out in the law, as well as the duties relating to works and expenses.

Specific Conditions for the Granting of Mining Exploration Licence

The National Agency for Mining Activities shall issue a mining exploration licence for a free area it has defined, to any person who has fulfilled the necessary conditions by submitting an application with the accompanying documents, following approval of the exploration attached to the application and such licences shall be granted in the order in which applications are registered, provided that exploration may cover one or more mineral or fossilised substances, with the boundaries of the area granted to a single operator and no other, the area in question shall be determined in accordance with the objectives specified by the applicant, the exploration programme and the investments undertaken by the applicant. The mining exploration licence shall be granted for a period of one year, which may not be exceeded, provided that the licence holder may request a single extension for a maximum period of one year, provided that the obligations incumbent upon them under the previous term of the exploration licence are fulfilled.

It should be noted in this regard that if, during exploration work, mineral or fossilised materials are discovered in at least part of the desired area, priority shall be given to the holder of the mining

exploration licence to obtain a mining exploration permit, provided that the National Agency for Mining Activities approves the exploration plan.

Conditions for the Granting of a Mining Exploration Licence

In addition to the general conditions for obtaining the aforementioned mining licences, there are specific conditions for obtaining a mining exploration licence, which are as follows:

The application must be accompanied by an environmental impact assessment: the legislator stipulates in Article 120 of Law No.25-12 on the regulation of mining activities; that any applicant for an exploration licence for mines or quarries must attach to their application an environmental impact assessment report. The aim of this is to determine the suitability of the project within its environment, whilst identifying and assessing the direct and/or indirect impacts of the project, and verifying compliance with environmental protection regulations within the framework of the project in question.

The content of the environmental impact assessment must include a description of the proposed activity, a description of the baseline conditions of the site and its environment, which may be affected by the activity, and the proposed alternative solution, as well as an assessment of the activity's impact on cultural heritage and its effects on socio-economic conditions, in addition to a presentation of mitigation measures designed to limit or eliminate harmful effects on the environment and health, or to provide compensation where possible.

Conducting a preliminary administrative investigation by the relevant provincial authority: Pursuant to Article 61 of Law No. 25-12 on the regulation of mining activities, prior to the granting an exploration licence, applications submitted are subject to a preliminary administrative investigation by the provincial authority responsible for the activity, following which the wali issues a reasoned opinion.

Once the application has been submitted, accompanied by the necessary documents, The National Agency for Mining Activities shall examine it, and then forwards it to the competent provincial authority or authorities to commence the administrative investigation. Upon receipt, the relevant wali or walis shall submit it to the competent provincial departments and the municipal people's councils, which decide on the conduct of mining activities within their territory. Based on the results of the investigation, the wali gives his opinion and sends it, within a maximum of three months from the date of receipt of the file, to the National Agency for Mining Activities, which decides within one month of receiving the wali's opinion on the application. If the application is accepted, the applicant is issued with a mining exploration licence after signing the register of obligations. When the application is rejected, the applicant shall be notified of the reasons for the rejection. In this case, an appeal may be lodged with the Minister responsible for mining within 30 days of the date of notification of the rejection.

Procedures for granting mining exploration licence: exploration licences for mines or quarries are granted by the National Agency for Mining Activities through direct award following the submission of an application by legally qualified persons; the Agency may also grant them following a call for tenders.

Direct award of a mining exploration licence: this is a procedure aimed at granting an exploration licence for mines or quarries by the National Agency for Mining Activities without call for tenders, and to any person who has met the necessary conditions by submitting an application with the accompanying documents, on a free-choice area following approval of the exploration plan attached to the application, and mineral exploration may involve one or more mineral or fossilised substances within the area granted to single operator and no other, provided that priority in granting a mineral exploration licence shall be given to the holder of a mineral prospecting licence, either for the whole or part of the boundaries of the requested area. In the event that the same area is requested by several persons and is not the subject of prospecting, the mineral exploration licence shall be granted to the first applicant.

Granting of a mining exploration licence following a call for tenders: this is a procedure aimed at obtaining several bids and selecting applicants in accordance with the requirement set in the tender documents. For the purpose of granting a mining exploration licence, the National Agency for Mining Activities may, through a call for tenders, offer mineral sites or deposits of mineral or fossil materials for mining that have already been assessed, discovered or identified. In this context, a detailed inventory of the areas likely to be the subject of a call for tenders for mineral sites or deposits must be drawn up and updated by the National Agency for Mining Activities and the Algerian Geological Survey. The National Agency for Mining Activities shall determine the procedures governing the call for tenders, as well as the conditions and methods for the submission and selection of bids for the granting of mining exploration licences, provided that, following three consecutive calls for tenders, any mineral sites and deposits that have not been awarded shall become available for award to the first applicant, in accordance with the provisions governing direct award.

Duration and renewal of mining exploration licence: a mining exploration licence shall be granted for a maximum period of four years; the licence holder may request its extension twice at most, with each extension lasting a maximum of two years. As for quarry exploration licences, these shall be granted for a maximum period of two years, and the licence holder may request its renewal twice at most, with each renewal lasting for a maximum of one year. However, renewal shall be granted in all cases provided that the licence holder has fulfilled all obligations incumbent upon them under the exploration licence for the previous phase, and has proposed, in the renewal application, a programme of works consistent with the results of the previous phase, and represents a financial commitment deemed sufficient by the National Agency for Mining Activities. On the occasion of each renewal, the area covered by the exploration may be reduced, this shall be in accordance with the new programme of works and the investments to be carried out by the holder of the exploration licence for mines or quarries.

Section Two: The Legal Consequences of the Ministry of Mineral Resources

Granting a Mining Licence or Permit to Carry out Mining Exploration Activities

The legal consequences of granting a mining exploration licence and a licence for exploration of mines and quarries consist of a set of rights granted to the holder, as well as a set of obligations incumbent upon them.

Rights Arising from the Granting of a Mining Certificate or Licence to Carry out Mining Exploration Activities

The rights granted to the holder of a mining prospecting licence or a licence for the exploration of mines and quarries are, on the whole, intended to ensure that they may carry out the specified mining activity in order to achieve economic benefit, and these consist of:

Exploitation of the Licensed Area: A mining exploration licence grants its holder the right to enter the licensed area in order to commence geological surveys and carry out surface prospecting and mining exploration work, provided that this licence does not grant the holder the right to carry out work that may cause harm to the landowner's property, holders of real rights or other rights holders. Furthermore, a mining or quarrying exploration licence grants its holder the exclusive right to carry out all the studies and mining works necessary for the purpose of mining exploration, within the boundaries of the licensed area and to an unspecified depth, and in the event that the results of the work carried out reveal the presence of mineral or fossilised materials other than those targeted in the licence for the exploration of mines or quarries, and indicate the need to extend the work beyond the granted perimeter; the holder of the exploration licence may request an extension of the scope of this licence to include such materials or to incorporate area adjacent to the area in question, provided that the licence incorporating the extension is granted in accordance with the same procedures and conditions as those followed for the granting of the initial licence.

The holder of an exploration licence for mines or quarries is also entitled, in the course of exploration work, to use the minerals extracted to fulfil quotas allocated for mining trials, provided that prior authorisation is obtained from the National Agency for Mining Activities, and conduct of mining trials abroad must be subject to a licence issued by the Algerian Geological Survey. The holder of an exploration licence for mines or quarries is entitled to use explosives where necessary to carry out exploration work. When a commercially exploitable deposit is discovered, the discoverer shall enjoy the right of priority in obtaining a licence to exploit the mines or quarries, and if they are unable to submit an application for a licence to exploit mines or quarries for current economic reasons confirmed by an independent expert, the National Agency for Mining Activities may grant a period of more than two years to any holder of an exploration licence for mines or quarries who has discovered a mineral deposit.

Occupation of land and associated rights: The Algerian legislature has granted the holder of a mining prospecting licence or a licence for the exploration of mines and quarries, the right to occupy, with the boundaries of the licenced area, the necessary land and associated rights, in order to construct the structures and facilities required for their activities, to carry out exploration work, and to provide accommodation for workers engaged in mining operations, and to construct the basic infrastructure necessary for related operations, in particular the transport of equipment, machinery and extracted products, as well as the abstraction from public water resources of the quantities of water required to carry out its mining activities, provided that a licence has been issued by the authority responsible for water resources, and provided that the approved development plan must include solutions and measures necessary for the treatment of used water with a view to its reuse, as well as the construction of the necessary infrastructure for water and energy supply, in accordance with the regulations in force.

The occupation of land and the rights attached thereto shall be either subject to private law and shall be by mutual agreement between the holder of the mining title or licence and the landowners, holders of real rights or their successors in titled, or lawful occupants, in which case the use is governed by a contractual agreement between the various parties, or by a declaration of public utility in the absence of mutual agreement if the public interest so requires. Furthermore, land forming part of the national estate may be occupied for the purpose of carrying out mining activities.

Pursuant to Article 129 of Law No.25-12 on the regulation of mining activities, land forming part of the national estate or may be occupied by persons subject to private law free of charge if the purpose is mining prospecting or exploration and no damage results therefrom, however, if such work cause damage to the landowner, holders of real rights, their beneficiaries or lawful workers, fair financial compensation must be awarded to them, and an attempt must first be made to determine the amount of such compensation by mutual agreement, and in the event of failure to reach agreement between the parties, it shall be determined by the competent regional judicial authority, based on the value of the produce which the landowner or other holders of real rights or their successors in title could have extracted through normal activity had they used the land during the period in which it was occupied by the holder of the licence for the exploration of mines or quarries. This compensation shall also apply to land forming part of the national estate, regardless of its legal status.

In the event that the occupation of the land or the carrying out of ancillary activities results in the landowner, holders of real rights, other-holders or lawful occupants being deprived of the use of the land for a period exceeding three years, or where the occupied land becomes unsuitable for its original use, in whole or in a substantial part, the owner shall be entitled to require the holder of the mining title or licence to acquire the land, in whole or in part, at a price determined on the basis of the value of the land at time of occupation.

Legal easements relating to access, passage and watercourses: An easement establishes a right to use one property for the benefit of another property belonging to a third party, an easement may also be established over property provided that this does not conflict with the use for which that property was designed. The Algerian legislature has granted the holder of a mining exploration licence or a licence for exploration of mines and quarries, the right to benefit from statutory easement of access and passage, and the lay the necessary pipelines for their installations or for the conduct of their mining activities on land adjacent to the boundaries of the area granted. The easement relating to access and passage to enclosed mining land is granted, in the event of the absence or inadequacy of an access route, given the location of the mining operation or its facilities, outbuildings or annexes, in relation to a public road or another mining operation, and the easement relating to conduits is granted for the purpose of passing, on or over neighbouring land, aerial or underground conduits for the supply of water, gas or electricity, or overhead lines or cables, or equipment intended for the transport or storage of mining products, as well as for rehabilitation works designed to facilitate the use and smooth running of mining operations or which are necessary for their development.

Provided, however, that the granting of legal easements relating to access, passage and conduits shall be either by mutual agreement with the owners of neighbouring properties, where private or forming part of the national estate, or in the event that no agreement is reached by mutual consent with the

parties concern a decision of the regionally competent wali, provided that the granting of a licence to exercise the right of easement for the purpose of carrying out mining activities and operations must be preceded by direct notification addressed to the owners, holders of real rights, other right-holders or the relevant authorities, together with a special inquiry in each municipality concerned to gather the views of those affected. The decision of the regionally competent wali shall specify provisional and estimated compensation calculated on the basis of the resulting damage, in respect of easements encumbering private immovable property or property belonging to the State which has been lawfully occupied by third parties, accordance with the legislation and regulations in force. This compensation shall be borne by the holder of the mining title or licence, the decision authorising the easements shall be registered with the land registry office within whose jurisdiction the encumbered property is situated, any disputes or objections that may arise from the easements or the related compensation shall be settled in accordance with the legislative provisions in force.

Obligations Arising from the Granting of a Mining Title or Licence to Carry out Mining Exploration Activities

The obligation with which the holder of a mining exploration licence or a licence for the exploration of mines and quarries must comply are, on the whole, intended to ensure that they carry out the specified mining activity in accordance with the necessary standards in order to achieve economic benefit. These obligations are as follows:

Marking out the Boundaries of the Granted Mining Area and Carrying out Works Related to Mining Exploration Activities: Upon obtaining a mining prospecting licence or a mining and quarrying exploration licence, the licence holder must commence the demarcation of the boundaries of the granted mining area, in accordance with the conditions and procedures specified by the National Agency for Mining Activities. The licence holder must also carry out the prospecting or exploration works set out in the relevant work programmes.

The exercise of activities associated with; the prospecting licence and the exploration authorisation is considered to be. The primary objective of granting licences is to lift the ban on the holder carrying out such activities, as the Algerian legislature has granted the holder of a mining prospecting licence the right to enter the land granted, and to commence geological reconnaissance, prospecting and surface mining exploration without carrying out other works such as drilling, provided that such works do not requires the permanent occupation of the plot of land, where as a mining exploration licence requires works such as surface drilling, and the extraction of mineral samples for examination and analysis, along with all associated work, which requires the occupation of the parcel. Failure to commence work within six months of the granting of a mining prospecting licence or licence for exploration of mines or quarries shall result in the suspension or withdrawal of the licence by the National Agency for Mining Activities, therefor, exploration work must be carried out on a regular basis .

Providing Adequate Technical Supervision for Mining Activities: Algerian legislature stipulates in Article 144 of Law No.25-12 on mining activities that the holder of a mining title or licence must provide adequate and appropriate technical support for all mining exploration operations, in accordance with the specifications set out in the specifications document. This obligation stems from

a condition for the granting of prospecting licences and mining exploration permits, namely the demonstration of technical capacity to carry out the activity, it cannot be carried out using outdated, rudimentary methods, but must instead modern techniques aimed at reducing costs and minimising damage. Furthermore, the legislator stipulated in Article 142 of the aforementioned law that the regulatory and technical conditions set out in the areas of the use of explosives, the safety and health of persons, public hygiene and health, the fundamental characteristics of the adjacent terrestrial or marine environment, the environment protection, industrial safety and the use of chemicals, the protection of biological resources, the protection of cultural and archaeological heritage, the rational exploitation of natural energy resources, the protection of water resources, protected areas, and the monitoring of the dimensions, weight and axle load of goods vehicles.

Payment of Fees and Royalties: Article 142 of the Algerian Law No.25-12 on the regulation of mining activities stipulates that holders prospecting licences and mining exploration permits are obliged to pay all fees and royalties applicable to their activities or installations. Furthermore, in accordance with Article 5 of the same law, the National Agency for Mining Activities is responsible for issuing collection documents relating to fees for mining certificates and licences issued by it, as well as revenue generated from the competitive tenders it organises. The most important taxes and fees relating to mining exploration activities can be summarised as follows: the document preparation fee, which is levied in return for the granting and renewal of mining permits and licences, the surveying fee, the professional activity fee and the property fee, as well as various other fees stipulated in tax legislation, such as the restoration and site rehabilitation fee and the pollution fee.

Submission of Periodic Reports to the Competent Authorities and the Statutory Deposit of Geological Information: The Algerian legislature has obliged holders of prospecting licences and mining exploration permits to submit a series of reports and to make a statutory deposit of geological information to the authorities responsible for supervising mining activities, namely:

An Annual Report on mining Activities: in accordance with Article 142 of Law No.25-12 on the regulation of mining activities, the holder of a mining prospecting licence and a mining exploration authorisation is required to submit an annual report on their mining activities to the National Agency for Mining Activities and the decentralised departments of the administration responsible for mines, the content of which is determined by the National Agency for Mining Activities, Article 85 of the same law also stipulates that the holder of a mining exploration licence, must regularly notify both the National Agency for Mining Activities and the Algerian Geological Survey of the results of the work carried out, both of which may publish and distribute them after the expiry of the mining exploration licence.

Report upon Expiry of Mining licence or Permits: Pursuant to Article 143 of Law No.25-12 on the regulation of mining activities, a report on the results obtained from the exploration work carried out must be submitted within three months prior to the expiry of mining exploration licence or the mining or quarrying exploration permit, with the Algerian Geological Survey and the National Agency for Mining Activities, failing which the mining licence or permit may be suspended and/or withdrawn.

Legal Deposit of Geological Information: Under Article 143 of Law No.25-12 on the regulation of mining activities, the Algerian legislature requires holders of prospecting licences and mining explorations, to submit for the legal deposit of geological information. Any information, document or study of any kind relating to prospecting and exploration operations, as well as the storage in Algeria of prospecting samples and all samples of mineral or fossilised materials covered by the mining licence or authorisation, and any associated mineral materials, shall be subject to the suspension and/or withdrawal of the mining licence or authorisation. Where the term of an exploration licence for mines or quarries has expired, or where the results of the exploration work have proved fruitless for the licence holder, the latter must, within a period not exceeding six months from the date of expiry of the licence, undertake the legal procedures for the deposit of geological information relating to all documents and samples containing the results of the work carried out. This procedure shall apply in cases where a mineral deposit is discovered but is not followed by an application for a mining or quarrying licence. Furthermore, where the holder of an exploration licence for mines or quarries assesses a mineral deposit as commercially viable and submits an application for a mining or quarrying licence, to carry out the legal procedures for the deposit of geological information and their geological report, at least one month before the expiry date of the exploration licence for mines or quarries.

Hosting Students, Technicians and Trainees in Mining-related Disciplines: Pursuant to Article 142 of Law No.25-12 on mining activities, the Algerian legislature requires holders of prospecting licences and mining exploration licences, to host students, technicians and trainees in mining-related disciplines, in accordance with a schedule agreed with universities, schools and training institutes. This obligation is regarded as a guarantee for the advancement of scientific research, particularly in its applied aspects, for students and trainees specialising in mining and geology. Undergoing practical placement complements the theoretical study undertaken by students and technicians at their educational and training institutions, thereby enhancing their competence and the quality of their academic achievement, which will assist them in their professional careers after graduation.

Protection of Workers' health and the Taking out of insurance policies: This obligation is enshrined in Article 142 of Law No.25-12 on the regulation of mining activities, holders of mining prospecting licences and exploration permits are required to protect workers' health in accordance with the legislation in force, namely the Social Security Act and the Labour Relations Act. They must also provide compensation for any damage caused to persons or property resulting from the conduct of their mining activities, with a view to preventing and minimising risks or damage that may be caused to persons, property, facilities or the environment. Under Article 116 of the same law, the Algerian legislature stipulates that mining activities must be carried out in accordance with the best international techniques and practices, and that all means must be employed to preserve mineral deposits and achieve the optimal economic recovery of mineral or fossil materials, whilst respecting the rules governing the protection of persons, property, facilities and the environment.

The Algerian legislature has also attached great importance to insurance in the field of mining activities, including mineral prospecting. Consequently, Article requires holders of prospecting licences and mining exploration permits to take out insurance policies to cover the risks associated with all their activities, in order to address any damage that may occur. A mining risk is defined under

Article 5 of the same law as “any event that may arise as a result of mining activities and which is likely to cause damaged to persons or property, and which is not limited to the mining area or to the scope of the mining title or licence”. It is understood from this article that the mining risk requiring insurance may be caused by mining activities, may extend beyond the mining area, and may extend to the post-mining phase.

Obligation to Protect the environment: Given that the environment is the living milieu in which humans live and consists of abiotic and biotic natural resources such as air, the atmosphere, the earth and the subsoil, as well as flora and fauna, including genetic heritage and the interactions between these resources, in addition to natural sites, landscapes and natural monuments . The Algerian legislator has obliged holders of mining prospecting licences and exploration permits to protect the environment in the course of their activities by complying with the regulatory conditions set out in relation to the fundamental characteristics of the adjacent terrestrial or marine environment, environmental protection, industrial safety and the use of chemicals, the protection of biological resources, the protection of water resources, and protected areas. Environmental conservation requires the rationalisation of natural resource consumption and the promotion of their sustainable use, as well as the reduction of pollution and the protection of ecosystems. For this reason, the Algerian legislator has made it mandatory for the party responsible to bear the cost of any damage caused to the environment as a result of mining activities, through environmental protection measures, the restoration of the site to its original condition and/ or financial compensation.

Restoration of Sites to their Original Condition: Algerian legislation requires mining licence holders to commence the restoration of sites to their original condition and, where necessary, to estimate the costs required to ensure monitoring and prevention measures for the post-mining phase, in collaboration with the competent administrative authority, as well as submitting to the National Agency for Mining activities, an up-to-date for the rehabilitation and restoration of the sites to their original state, and the works to be carried out during the post mining phase, six months before the expiry of each mining title or licence. In accordance with Article 145 on the same law, in the event of the closure of a mining site due to the depletion of mineral or fossil reserves, the holder of the mining title or licence must commence the removal of all structures located within the mining area, and must restore the mining site to a condition as close as possible to its original state, acceptable to the National Agency for Mining activities and the competent environmental authorities, in addition to paying the fees and charges due the rehabilitation and restoration of the site to its original state, and fulfilling all the obligations set out in the terms and conditions.

Conclusion

Mining exploration for mineral resources, in its two forms; prospecting and exploration, is among the regulated economic activities organised by the Algerian legislature through specific legal provisions, as it requires a legal and technical framework, given its connection to exhaustible and non-renewable natural resources that necessitate specific protection, with a view to rationalising their exploitation as a pillar of national economic development. Through a study of the subject and an analysis of Law No25-12 on the regulation of mining activities, the following conclusions have been reached:

- The legal provisions enshrined in Law No.25-12 regarding mining prospecting activities enshrine the principle of state sovereignty over mineral resources, as these are considered protected national assets.
- The restriction of mining exploration activities to the holding of a prospecting licence and an exploration licence, issued by the National Agency for Mining activities in accordance with specific conditions, indicates that this is a regulated activity; it is therefore prohibited for persons who do not hold such licences or titles. This is due to the importance of mineral resources for economic development.
- Defining the geographical scope and duration within which mining exploration activities, whether prospecting or exploration, are to be carried out, whilst specifying the mineral or minerals concerned, constitutes a form of regulation of economic activities in the mining sector.
- With a view to improving the business climate, stimulating investment and encouraging investment to drive national development, the door has been opened for foreign investors to carry out mining exploration activities; this also paves the way for benefiting from their expertise and the technologies they employ.

In light of the above, we propose a series of recommendations designed to enhance the effectiveness of Law No.25-12 on the regulation of mining activities, namely:

- The need to update the regulations governing mining activities, in line with environmental protection and sustainable development legislation, to limit the depletion of the country's underground natural resources.
- Encouraging individuals to invest in the mining sector through incentives and exemptions, and highlighting its impact on the national economy in line with global economic shifts.
- Strengthening domestic-foreign partnerships through legal mechanisms that ensure the transfer of modern technologies in the field of mining research activities, namely prospecting and exploration, whilst establishing legal controls when prioritising the granting of exploitation licences in the case of mineral exploration.
- Enforcing laws and regulations to protect the environment and ensure that the natural ecological cover remains intact, in a manner compatible with the conduct of mining exploration activities, particularly mineral exploration where explosives may be used.
- Strengthening the responsibilities borne by holders of prospecting or exploration licences, particularly following the completion of works, in order to protect the workforce engaged in this activity as well as the environment.

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