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CHARACTERISTICS OF LITIGATION IN FOREIGN INVESTMENT DISPUTES UNDER LAW NO. 50/2019 RELATING TO FOREIGN CAPITAL INVESTMENT IN THE SULTANATE OF OMAN

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ABSTRACT

This paper will highlight the traits whereby disputes in foreign investments can be distinguished in the Sultanate of Oman under the Foreign Capital Investment Law issued by Royal Decree No. 50/2019. The matter explores procedural and substantive safeguards in foreign investments, particularly in issues relating to seizure, confiscation, and prohibition. The study likewise highlights the jurisdiction of the Omani judiciary over investment disputes and the role of the specialized court for investment and commercial disputes in enhancing the speed and efficiency of resolving investment cases, in addition to the rights of investors to resort to arbitration. The study accomplishes that Omani law provides clear guarantees for the protection of investments, which thanks to the meticulous regulation of license cancellation procedures, protection of property, specialized judicial organization, expedited procedures, and compliance with international standards in arbitration contribute significantly to supporting a stable investment environment in line with Oman Vision 2040.

KEYWORDS: Oman Foreign Investment Law 2019, Litigation in foreign investment disputes, protection of foreign investors, expedited procedures, prohibition of confiscation, jurisdiction of Omani courts, Oman Vision 2040, arbitration, Omani Investment and Commercial Court.

1. INTRODUCTION

After the issuance of the Foreign Capital Investment Law through Royal Decree No. 50/2019 the foreign investment sector in the Sultanate of Oman is observing significant development. In alignment with the requirements of the modern economy and Oman's directions toward economic diversification this law came as a response to aspirations of enhancing the business climate and attracting foreign capital. The choice of this research topic is due to the importance increasing of foreign investments and their strong influence on national economic development. Practical practices have shown the existence of legal and procedural challenges facing foreign investors when disputes arise related to their investments.

In this context, the research problem raises the question of the effectiveness of the legal and judicial guarantees provided by the Foreign Capital Investment Law No. 50/2019 in protecting the rights of foreign investors particularly in the possibility of resorting to litigation and arbitration as means of settling potential disputes and the face of potential seizure or expropriation. Hence, the problem of the study revolves around the sufficiency of legislative protection, especially regarding the scope of jurisdiction of judicial authorities, and the effect the urgent nature given to these disputes may have on the investor's right to swift access to justice.

The objectives of this study can be summarized in several points, most importantly: analysing the procedural and substantive safeguards granted to foreign investors in facing disputes that may arise from the conclusion and execution of investment contracts, clarifying the specific criteria of judicial jurisdiction for Omani courts in considering foreign investment disputes, and uncovering the effectiveness of the legal solutions provided by the Foreign Capital Investment Law No. 50/2019 in serving and encouraging safe investment within the Sultanate. Additionally, this paper aims to enrich the academic discussion in the field of investment and to present recommendations to relevant authorities to strengthen the investment environment.

This study also falls under a group of previous researches that addressed the subject of foreign investment protection and dispute resolution in the Sultanate of Oman.

In fact, the Foreign Capital Investment Law No. 50/2019 is relatively recent, having been issued in 2019. Therefore, academic research focusing on it is still limited compared to less recent legal topics. Nevertheless, these academic works relevant to Omani judiciary and arbitration provide important

context for understanding litigation mechanisms in foreign investment disputes, even though most have focused on the overall legislative framework without scrutinizing the specificities of litigation and in-depth analysis of practical procedures. For instance, the study by SAID and NEGASI (2020) examined the role of the judiciary in Oman and the UAE in monitoring the work of arbitrators, providing a comparative analysis of how judicial systems deal with investment arbitration disputes and emphasizing the importance of balance between the judiciary and the arbitration panel (Al Nasser Hussein Ali Said & Mohamed Ibrahim Negasi, 2020). Similarly, the role of Omani courts in addressing contradictions in arbitration clauses within administrative contracts was highlighted by Amel's study (2014), especially when dealing with state-owned entities and the impact this has on using arbitration as a dispute-resolution mechanism involving foreign investments. On the other hand, judicial independence and the separation of powers in a comparison between the Omani and British systems was discussed by Al Junaibi (2020), affirming that the independence of the judiciary is a critical factor encouraging foreign investors to trust the Omani judicial system (Al Junaibi, 2020). In addition, Hirstt (1992) provided a historical perspective on judicial jurisdiction in commercial matters in Oman, which of course assists in understanding the contemporary evolution of commercial jurisdiction related to investment disputes (Hirstt, 1992). Together, these academic studies definitely contribute to build a solid knowledge base for understanding the specificities and roles of the judiciary and arbitration in foreign investment disputes within the Sultanate of Oman. However, the distinguishing feature of this present study is that it investigates deeper into the "characteristics of litigation" and the practical procedures applied to foreign investment disputes, with the aim of filling the gap in literature, which has often focused on the general legislative framework without closely analysing specialized procedural and judicial mechanisms.

Investigating the characteristics of litigation in foreign investment disputes under the Foreign Capital Investment Law No. 50/2019 leads to rely on a multifaceted research methodology to ensure a comprehensive and precise analysis of this subject. First, the reliance will be on the analytical method so as to study and examine relevant legal texts, specifically the provisions of the Foreign Capital Investment Law No. 50/2019 and its supplementary legislation, such as the Law of Simplified Litigation

Procedures and the Investment and Commercial Court Law. This will be augmented by an analysis of jurisprudential opinions and judicial precedents in this field. The comparative method will also be employed to assess the effectiveness of the legal and procedural guarantees offered by Oman's legal system by comparing them with experiences and best practices from other jurisdictions, both regionally and internationally, in the field of investment protection and dispute resolution. In addition, the reliance will be on empirical studies by analysing Omani court rulings and practical experiences in resolving foreign investment disputes in recent years to evaluate the effectiveness of the legal framework in practice.

2. GUARANTEES FOR FOREIGN INVESTORS IN LITIGATION

The Omani legislator uses a specific approach to safeguarding foreign investment through a set of guarantees. This approach is evident in the provisions established regarding seizure, expropriation and confiscation as set out in the Foreign Capital Investment Law, as a general principle, it prohibits any deprivation or restriction of a project's assets without a judicial ruling, while providing for a well-defined and limited tax exception to this rule. The law also clearly distinguishes between confiscation and expropriation for public benefit. Foreign investors' in the Omani judiciary is enhanced by This distinguished legislative framework, which affirms the Sultanate's commitment to "international standards" in investment protection, making it an attractive destination for foreign capital seeking a stable and fair investment environment.

On the other hand, in Article 25 an "organized, escalating procedure" is established by the Foreign Capital Investment Law in the Sultanate of Oman which characterized by strictness and transparency before any investment approval, license, or permit is revoked. This procedure, which includes hearing the investor's viewpoint, prior review through the Ministry's opinion, specific written warning, a crucial grace period for remedy, and a reasoned decision, effectively balances the enforcement of regulatory controls with the protection of the investment project's reliance on the license as a foundation for confidence and stability. These guarantees serve as a powerful tool to enhance "legal certainty" (Huhta, 2020; Muliadi, 2017) and "the quality of the regulatory environment" (Al-Qahtani & Albakjaji, 2023; Saha et al., 2022), reinforcing investors' confidence in the stability of their

investments in Oman and thus making it an appealing destination for foreign capital seeking a stable and predictable environment (Boute, 2012).

Foreign investors have the right to recourse to the judiciary and arbitration through robust and integrated foundations that has been established by The Omani legislative framework. The Sultanate provides solid safeguards for dispute resolution by strengthening judicial independence, designating specialized and effective judicial channels (such as the Law on Simplification of Litigation Procedures and the Investment and Commercial Court), and through Oman's commitment to international standards and agreements in the field of arbitration. Additionally, investment disputes are given expedited status, which enhances the effectiveness of these mechanisms and contributes to a conducive environment.

2.1. Protection from Confiscation, Seizure, and Expropriation

Among the fundamental guarantees foreign investors seek to ensure is respect for property rights when entering any market (Al-Qahtani & Albakjaji, 2023). The absence of proper protections for investment assets against arbitrary governmental interventions negatively affects the legal certainty and predictability for foreign investors, two critical factors in attracting and sustaining foreign capital (Chan et al., 2024; Janderová & Hubáková, 2021; Marozva & Magwedere, 2025). In this context, the Omani Foreign Capital Investment Law established a robust legal framework issued by Royal Decree No. 50/2019 aimed at protecting the assets of foreign investors from confiscation, seizure, and expropriation, while seeking a balance between state sovereignty on one hand and the rights of the investor on the other.

2.1.1. Prohibition of Confiscation, Seizure, and Similar Measures Except by Judicial Ruling:

A strict preventive approach is adopted by The Sultanate of Oman to the protection of investors' assets. According to the Article 23 of the Foreign Capital Investment Law, no investment project may be confiscated except by a judicial ruling, nor may its assets be frozen, seized, placed under receivership, or placed under precautionary measures except by a judicial ruling (Royal Decree 50/2019, Article 23). This article provides strong protection for the financial interests and assets of investment projects, subjecting all critical restrictions on ownership to prior (not subsequent) judicial oversight.

This judicial requirement significantly limits

“arbitrary decisions” by the executive authority and strengthens the principle of “legal certainty”, ensuring that any meddling with an investor’s property must be based on a sound legal foundation and thorough examination by an independent judiciary (Henckels, 2019; Stones, 2021). Studies demonstrate that the existence of effective judicial oversight over administrative decisions, especially those that affect investment is crucial for enhancing investor confidence and protecting their rights (Al-Qahtani & Albakjaji, 2023; Chi & Li, 2020). Moreover, this requirement diminishes the possibility of “circumventing through different administrative classifications” to enforce restrictions on use, management, or disposal of assets, thereby closing procedural loopholes that could otherwise enable the confiscation of investment projects.

This guarantee can be categorized as having a “composite procedural and substantive nature”. It is procedural in that it necessitates a prior judicial ruling to effect seizure, confiscation, or similar measures. It is substantive in that it protects investment property as a cornerstone of foreign economic activity. This approach aligns with the “full protection and security” standard known in international investment agreements, which obliges host states to provide a high degree of effective protection to foreign investments (Miljenić, 2019).

Moreover, It is worth noting that the Omani legislator, in providing these guarantees, used broad legal terms such as “freezing, seizure, precautionary measures, and receivership” with the intent to close any procedural loopholes that might be used to restrict an investor’s actual use, management, or disposal of their assets in indirect ways, underscoring the legislator’s commitment to comprehensive protection of investment property.

2.1.2. Tax Exemption and Its Limits:

To ensure the strict protection of investors’ assets, a narrow and specific exemption is provided by Omani law, whereby “tax debts owed to the state” are excluded from the requirement of a judicial ruling. This exemption allows the tax administration to take “precautionary measures” against the assets of the investment project to secure tax collection without the need for a prior judicial verdict, provided that the “Compulsory Collection Law” permits it, since the tax debt is considered a privileged public debt by special provisions.

However, it is important to note that “the scope of the exemption is narrow and limited only to due tax debts” and does not extend to non-tax fees or administrative fines unless specifically stated.

Moreover, this exemption does not by itself establish a right of confiscation; it only justifies precautionary and guarantee measures to collect a lawfully due public debt. In fact, this balance between the rule and the exception is aimed at maintaining investment attractiveness while ensuring the state’s ability to collect its public revenues (Burhan & Gunadi, 2022; Gonzales-Otoya & Marín, 2019).

2.1.3. Distinction Between Confiscation and Expropriation for Public Benefit:

The Omani legislative framework precisely differentiates between judicially restricted confiscation and expropriation for the public benefit, setting out strict procedures and conditions for each. even though Expropriation affects the right of ownership, is subject to the provisions of Article 24 of the Investment Law, which stipulates that under no circumstances may the ownership of the investment project be expropriated except for the public benefit pursuant to the Expropriation Law for Public Benefit, and in return for fair compensation assessed at the time of expropriation, with the compensation due to be paid without delay.

This distinction between judicially expropriation for public benefit and restricted confiscation closes the door to the use of confiscation as an alternative to expropriation, and imposes strict conditions for each process in accordance with international standards. Expropriation procedures must meet specific conditions: they must be for the public benefit, be carried out pursuant to due legal process, be non-discriminatory, and carried out in return for fair compensation. Many experts also emphasize that fair compensation must be “prompt, adequate, and effective” (Dolzer & Stevens, 1995; Schachter, 1984). In addition, the law requires that, to apply the public benefit standard for expropriation, specific formal and substantive procedures outlined in the Expropriation Law and its implementing regulations must be followed, including decisions declaring the public benefit, property inventory and valuation by specialized committees, and ensuring means of grievance and judicial appeal (Royal Decree 71/2023, 2023; Ministerial Decree No. 1016/2024, 2024).

Some writers also distinguish between direct confiscation, which involves explicit deprivation of ownership, and indirect confiscation, which strips the investor of the economic benefits of their investment without express expropriation—in other words, through regulatory actions that do not amount to direct expropriation but effectively deprive the investor of control over, use of, or expected economic returns from their assets

(Khachvani, 2020; Newcombe, 2005; Papolizio, 2015). Differentiating between these two types of confiscation is essential to the debate over whether government actions such as special regulations related to climate change are considered confiscation warranting compensation.

This strict differentiation between judicially restricted confiscation and expropriation for the public benefit bring into line with the principles of international investment law, which distinguishes between indirect confiscation that deprives the investor of the economic benefits of the investment and direct confiscation involving explicit transfer of ownership through regulatory measures, without expropriation (Khachvani, 2020; Newcombe, 2005; Papolizio, 2015). The precise distinction in Omani law is a crucial mechanism for ward off any confusion that might lead to considering legitimate expropriation (i.e, one that fulfils all conditions) as illegal confiscation, which enhances investor confidence (Henckels, 2012). This approach also supports the principle of the "state's right to regulate" within a framework that protects investments against arbitrariness (Gaukrodger, 2017).

Lastly, it is noted that Article 24 of the Foreign Capital Investment Law affirms the need of calculating fair compensation based on the market value at the time of the dispute, taking into consideration direct damages and the investor's lost profits due to the expropriation in the compensation process (Ministerial Decree No. 1016/2024, 2024).

2.1.4. Practical Implications and the Principle of the Rule of Law:

The aforementioned guarantees confine the powers of administrative and regulatory bodies, requiring them to recourse to the judiciary whenever they wish to enforce measures that affect the assets of the investment project. This enhances "legal certainty" and reduces "regulatory risk" for investments. Therefore, such judicial oversight, which entails careful scrutiny by the judiciary, is a crucial element for strengthening the "rule of law" and preventing "judicial arbitrariness" or "judicial activism" that could be detrimental to investment (Li & Qureshi, 2020; Prislán, 2021).

This framework of guarantees aligns with the philosophy of foreign capital investment law in enhancing investor confidence in the investment environment, and in protecting investment projects from arbitrary interventions. It reflects a comparative trend that distinguishes between punitive and administrative measures that directly affect the

investor's funds, emphasizing the necessity of obtaining a prior judicial order before taking such actions.

2.2. Protection Against the Cancellation of Approvals, Licenses, or Permits Issued for Investment Projects.

Legal protection against the arbitrary cancellation of licenses, approvals, and permits issued for investment projects forms a fundamental pillar for strengthening legal certainty and the stability of foreign direct investment. The absence of a predictable regulatory environment is a major barrier to investment inflows, as licenses may be cancelled, approvals may be withdrawn, or permissions may be modified for investment projects without due process or clear reasons (Chan et al., 2024; Marozva & Magwedere, 2025). In this context, Article 25 of the Omani Foreign Capital Investment Law (Royal Decree 50/2019, Article 25) emerges as a model of a stringent legal framework intended to provide the necessary protection for investors in this regard.

This approach aims to achieve fair and a precise balance between the state's sovereign right to regulate, protect public interests, and the need to provide a predictable and stable environment for investors (Gaukrodger, 2017). This balance is vital for securing confidence in the state's legal and institutional system, which aligns with the principles of "good governance" and "legal certainty" core values in attracting investment and fostering the country's economic development (Henckels, 2019; Mitchell et al., 2016; Zhu, 2018). It is worth noting here that legal certainty refers to the need to provide a stable and understandable legal framework that enables individuals and entities to plan their future activities and make rational decisions (Janderová & Hubáľková, 2021).

2.2.1. Procedural and Substantive Framework of Protection against Cancellation:

The aforementioned Article 25 lays down a set of sequential and interconnected safeguards that aim to provide transparency and clarity for investors before any cancellation decision is made and restrict the discretionary power of administrative authorities. These safeguards reinforce "equitable and fair treatment" of foreign investors within the national investment environment, a standard commonly found in international investment agreements (Stone, 2012). The guarantees stipulated by the Omani legislator in Article 25 constitute a specific set of conditions that must be met in any decision to cancel the license, approval, or permit issued for an

investment project, as follows:

2.2.1.1. Reasoning the Decision:

For the annulment of a license, approval, or permit issued to an investment project to proceed, the annulment decision must be "reasoned", meaning the competent authority must clarify within its decision the "legal characterization, facts, and grounds" upon which it relied. Reasoning is a fundamental cornerstone of administrative transparency and "legal certainty", as it allows for subsequent judicial review of the soundness of the decision if challenged, significantly limiting arbitrary or abrupt decisions. It allows the investor to understand the legal basis of the decision so as to defend their interests. Reasoning in this context is not a mere formality but rather a fundamental defence guarantee that allows for a review of the proportionality of the administrative sanction in relation to the violation, and whether the issuing authority has considered lesser alternatives before opting for cancellation when available. Legal scholarship has affirmed that effective reasoning enhances the legitimacy of administrative procedures and prevents arbitrary decisions, as well as allows for the assessment of whether administrative bodies have adhered to less intrusive measures before resorting to annulment. In this regard, the principle of "non-arbitrariness" is considered as an essential aspect of legal certainty (Henckels, 2019; Janderová & Hubálková, 2021).

2.2.1.2. Written Warning

Before making a decision to cancel the approval, license, or permit issued to the investment project, the law obliges the competent authority to issue a "written warning to the foreign investor regarding the alleged violation". First, this written warning ensures that the investor is informed of the alleged violation and the actions to be taken against them and the reasons behind those actions, so that they can defend themselves. Second, it allows for the documentation of the starting point of the period granted to the investor, thereby preventing confusion over deadlines or ambiguities regarding the reason for annulment. This enables the investor to prepare a compliance plan within the specific period. Third, a reasoned warning helps document administrative communication and serves as a key document in any subsequent appeal before the administrative judiciary if the actions are alleged to be invalid or deficient. Therefore, the written warning reflects an essential principle related to "due process" in administrative law, whereby the affected party is

informed in advance of a potential adverse decision, providing an opportunity for correction and compliance and enhancing trust in administrative procedures (Gleeson et al., 2019). Moreover, The resulting transparency from a written warning directly contributes to attract foreign investment by enhancing credibility (Mitchell et al., 2016).

2.2.1.3. Hearing the Investor's Point of View:

Article 25 ensures the right to a hearing for the investor before any annulment decision is implemented. This is an application of the principle of the right of defence and adversarial proceedings, which are core principles of procedural justice. This right contributes in improving the quality of administrative decisions by allowing the investor to respond to the accusations made against them, thus reducing the likelihood of errors, subsequent legal disputes and ensuring more informed decision-making. In addition, this procedure is consistent with the requirements of equitable and fair treatment, whereby host states are required to deal with investors in a fair and transparent manner, taking into account their legitimate expectations (Bian, 2022; Chen, 2024; Levashova, 2020).

2.2.1.4. Remedial Period

The investor is granted a "period not exceeding thirty days from the date of the warning to address the cause of the violation". This period embodies the "principle of proportionality", which is a cornerstone in international investment law and administrative law (Chen, 2024; Goldmann, 2015). In cases where violations can be remedied, it gives precedence to corrective compliance measures over final termination. This period is essential for the investor to avoid cancellation and rectify their situation, thus maintaining the stability of their investment project. Now, It is observed that "proportionality analyses" have become a common tool in investment arbitration for evaluating government measures, underscoring the need to balance public objectives with investors' rights (Brabandere & Cruz, 2020; Chen, 2024; Gülçür, 2019; Leonhardsen, 2011).

2.2.1.5. Ministry Consultation

The Omani legislator requires "consultation with the Ministry before cancelling a license an approval, or permit". This step adds an "institutional oversight layer" ensuring proper implementation of investment policy at the national level and prevents unilateral decisions by lower executive authorities where investment is involved. In addition, it enhances "standardization" and reduces

“discrepancies” among different administrative bodies in the state, especially in sectors that are regulated by multiple authorities. This guarantee reflects the importance of good governance practices and institutional transparency in enhancing investor confidence and reducing regulatory risks (Cicatiello et al., 2020; Mitchell et al., 2016; Saha et al., 2022).

2.2.2. The Principle of Proportionality and Judicial Oversight

The Omani legislator emphasizes the application of the “principle of proportionality”, whereby annulment is not resorted to except after exhausting preventive measures and the curative period in rectifiable violations. Annulment is considered as a “final penalty” that should correspond to the severity and impact of the violation. This approach aligns with legal doctrine, which stresses the necessity to balance the state's regulatory authority with the protection of investors' rights from “arbitrary measures” that may constitute “indirect expropriation” under international investment law (Gaukrodger, 2017; Henckels, 2012; Stone, 2012). Research points out that courts are paying increasing attention to the regulatory purpose of the state when analysing indirect expropriation, as they seek to strike a balance between the investor and the interests of the state (Henckels, 2012).

Any annulment decision that does not adhere to these substantive and procedural guarantees is “liable to judicial annulment due to defects in form, cause, or violation of the law when challenged. This grants the investor “strong defences before the administrative judiciary” to seek a suspension of implementation or annulment of the decision on the grounds of arbitrariness or abuse of power. Such judicial oversight reflects the judiciary’s role as a guardian of the legality of administrative decisions (AL Qahtani & Albakjaji, 2023; Alshawabkeh & Almajali, 2021; Wang et al, 2018), which is a fundamental element in the “rule of law” system that strongly attracts investment (Goldmann, 2015; Saha et al, 2022).

2.3. The Right to Resort to Courts and Arbitration.

Investment Law No. 50/2019 affirms that the foreign investor enjoys an inherent right to resort to the Omani judiciary to ensure the preservation of their interests and the protection of their rights. This is based on the principles of equal opportunity for all investors and the rule of law. Omani law gives investors the freedom to choose among various dispute resolution options, including the national

judiciary, specialized courts, and arbitration whether local or international arbitration. Article 17 of the Foreign Capital Investment Law states: “Omani courts have jurisdiction over any dispute arising between the investment project and others, and cases involving investment projects are to be handled urgently before these courts. Disputes may also be settled through arbitration”. This article pints out that Omani courts have jurisdiction over any dispute arising between other parties and the investment project, assigns urgency to such cases, and allows for the resolution of disputes through arbitration. It reflects the legislator’s adoption of a dual approach to resolving investment disputes in order to strike a delicate balance between the requirements of protecting foreign investments and the public interest of the state, while ensuring that effective mechanisms are in place to enable investors to address any disputes they may encounter in a practical and enforceable manner.

2.3.1. The Right to Resort to the National Judiciary

The Omani legislator acknowledges crucial role of an independent judiciary in protecting investors’ rights and enhancing economic stability, recognizing that an effective judiciary is a driver of economic development. This recognition supports legislative efforts to provide procedural protections for foreign investments, particularly as a guarantee of litigation within the context of Oman’s Vision 2040. The judiciary’s authority significantly affects investment attractiveness and economic performance (Saha et al., 2022). The right of the foreign investor to access the Omani judiciary has been strengthened through several measures, including the following:

2.3.1.1. Adoption of the Principle of Judicial Independence

The Basic Statute of the State affirms the independence of the judiciary (Article 77, Oman Basic Statute of the State). This principle is fundamental in building trust in the legal system and is a crucial element for attracting direct foreign investment, as investors seek to operate in environments where the law is applied effectively, fairly, and impartially (Chan et al., 2024).

2.3.1.2. Law Simplifying Litigation Procedures (Royal Decree 125/2020)

a. Jurisdiction Allocation: This law establishes a well-organized jurisdictional system for foreign investment project disputes across three levels: it considers the Administrative Court’s jurisdiction for

disputes of an administrative nature, prioritizes the arbitration clause (if present), and assigns the primary courts' jurisdiction to commercial disputes involving the investment project.

b. Specialized Judicial Chambers: The law (pursuant to Article Three) established specialized divisions in every primary court and an appellate division in every court of appeal to handle such disputes. This specialization guarantee easy access to the judiciary: a single judge oversees cases at the primary level, while upholding the right to a two-tier trial system, thereby balancing speed and quality of judicial review.

c. Filling Legislative Gaps: by affirming the priority of specific legal provisions, The law strengthens the right to litigation. In the absence of a special provision, the general rules in the Civil and Commercial Procedures Laws, Evidence Laws, and Notary Laws apply, provided they do not conflict with the special provisions. This prevents duplication or contradiction and ensures legislative integration.

2.3.1.3. Establishment of the Investment and Commercial Court (Royal Decree 35/2025, 2025)

a. Exclusive Subject-Matter Jurisdiction: This court (which began operations in October 2025) has exclusive jurisdiction to hear cases arising out of investment contracts, as well as other types of commercial disputes. This unifies the standards applied in investment disputes and enhances specialization.

b. Court Chamber Structure: The chambers of the court are constituted of either single judge or three judges, depending on the value of the dispute cases over 100,000 Omani Rials, or of indeterminate value, are heard by panels of three judges to ensure sufficient judicial expertise, while lower value claims are heard by a single judge to maintain speed.

c. Positive Outcomes: The establishment of this court is expected to reduce conflicting court decisions and expedite the adjudication of disputes, thereby addressing the issue of the time costs of litigation and minimizing legal risks in transactions. Judicial specialization is a essential guarantee for attracting investment, as it accelerates dispute resolution and streamlines procedures.

2.3.2. The Right to Arbitration

The right of investors to resort to arbitration, especially international arbitration, to resolve their disputes is recognized by Omani law. This route is considered effective in subjecting claims to evaluation according to internationally recognized

standards, such as protection from unlawful expropriation and the principle of fair treatment.

2.3.2.1. Omani Arbitration Law (Royal Decree 47/97, as amended)

a. Alignment with international standards: This law is inspired by the UNCITRAL Model Law on International Commercial Arbitration and it is consistent with the international agreements concluded by the Sultanate. This alignment reassures investors of the existence of an internationally recognized legal framework for arbitration.

b. Scope of application: The law covers arbitration between parties who are either private or public legal persons, whether arbitration takes place in the Sultanate or is an international commercial arbitration conducted abroad in which the parties have agreed to apply Omani law. This flexibility and inclusiveness reinforce investors' confidence in the impartiality and effectiveness of the procedures.

c. Priority of international agreements: The law underscores that its provisions do not prejudice the international agreements in force, meaning that priority in application is always given to the international agreements ratified by the Sultanate of Oman.

2.3.2.2. The Sultanate of Oman's international commitments:

a. New York Convention 1958: The Sultanate ratified the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards by Royal Decree 36/98 (1998). This convention is a cornerstone in the enforcement of international arbitration awards and provides an effective mechanism for their cross-border enforcement.

b. Other agreements: The Sultanate of Oman is also a party to multilateral agreements such as the ICSID Convention, the Gulf Cooperation Council Convention, bilateral investment treaties and the Riyadh Convention. Oman cannot reduce any guarantees existing in these agreements, particularly with regard to the right to seek resolution of international disputes through arbitration.

2.3.2.3. Institutional support for arbitration

The Omani legal system supports arbitration through the Oman Center for Arbitration. The establishment of the Oman Center for Arbitration by Royal Decree 26/2018 represents an essential institutional step and a significant guarantee for the use of arbitration in investment transactions. The center contributes to providing an accredited and a developed arbitration environment.

3. GUARANTEES FOR FOREIGN INVESTORS IN LITIGATION

The Omani legal framework regarding the determination of the competent judicial body for foreign investment disputes has evolved to become more efficient and specialized. Previously, jurisdiction was generally distributed among the primary courts with some degree of specialization. However, the establishment of the Investment and Commerce Court represents a qualitative leap towards providing a specialized judicial environment. This specialization, alongside differentiation in the composition of chambers according to the value of the dispute, ensures fair and effective handling of cases, thereby enhancing legal certainty and reducing the risks associated with litigation in the Sultanate of Oman. All together, these efforts reinforce the confidence of foreign investors and contribute to attracting more capital (Harten, 2005), in line with the objectives of Oman Vision 2040.

3.1. Determining the Competent Judicial Body

Determining the competent judicial body for foreign investment disputes is considered as a fundamental specificity of litigation in this field. It is important for this body to possess expertise and specialization and to follow effective and transparent procedures to ensure justice. After the issuance of the Foreign Capital Investment Law by Royal Decree No. 50/2019, Omani law has endeavoured to establish organized and clear rules for this jurisdiction, integrated with traditional judicial paths and benefiting from judicial specialization.

3.1.1. The General Principle of Jurisdiction for Omani Courts

As stipulated in the Foreign Capital Investment Law, Omani law recognizes the jurisdiction of Omani courts to hear cases arising from the application of the law, unless there is an agreement to the contrary between the parties (such as resorting to arbitration) or a specific provision granting jurisdiction to a designated arbitral or international body. This affirms the sovereignty of national law while acknowledging the flexibility of the parties to choose alternative dispute resolution mechanisms. Commonly, appellate chambers or commercial courts are competent to consider disputes involving foreign investors, emphasizing that procedural rules for litigation before these courts ensure that the investor receives an effective and fair trial (Dolzer & Schreuer, 2008).

3.1.2. Law on the Simplification of Litigation Procedures in Certain Disputes (Royal Decree No. 125/2020)

This law was enacted in response to the necessity to provide procedural judicial protection for investment disputes, including those related to foreign capital investment. Article 4 specifies the jurisdiction of the primary chamber to decide all commercial disputes of the investment project subject to the Foreign Capital Investment Law, regardless of the value of the dispute. Moreover, these chambers are granted the authority to order interim and precautionary measures and issue payment orders, thus enhancing their status as the first judicial authority with comprehensive and expeditious jurisdiction.

Although this approach aims to expedite case resolution and bring courts closer to investors, some criticisms indicate that it does not take into account high value disputes, which require experienced judges that primary courts may not be able to provide (Al Sawai, 2025). Complex investment disputes demand a deep understanding of international commercial and financial law, which may not be available in general jurisdiction primary chambers (Chi & Li, 2020).

3.1.3. The Investment and Commerce Court (Royal Decree 35/2025, 2025)

The establishment of the Investment and Commerce Court represents a significant and qualitative step in developing the Omani judicial system to serve the investment environment. This court which began its operations in October 2025 will have exclusive qualitative jurisdiction to adjudicate all claims arising from investment contract disputes, in addition to other types of commercial disputes.

3.1.4. Characteristics and Jurisdictions of the New Court

a. Exclusive Subject Matter Jurisdiction: The establishment of the Investment and Commerce Court results in the “withdrawal of subject matter jurisdiction” within its scope from general judicial bodies to a specialized judiciary. This unifies the standards adopted in investment dispute and enhances specialization, addressing the cost of judicial time and reducing inconsistency in judicial interpretations. Judicial specialization provides crucial guarantees to attract investment by creating specialized courts or circuits, accelerating dispute resolution, simplifying procedures, and providing effective judicial protection suited to the nature of

investment disputes. Judicial guarantees for investment are based on an efficient and independent judiciary that reduces contractual risks and provides legal security. The attractiveness of the investment environment is directly linked to the fairness, efficiency, and speed of the judicial system. Economic studies have shown that improvements in judicial performance enhance private property protection, and increase efficiency and growth, which in turn leads to more and higher sustainable capital inflows. Here, judicial specialization serves as a comprehensive guarantee tool: specialization improves the speed of resolution and the quality of judgments, and should be carried out by judges who are knowledgeable about the nature, technical and financial intricacies of investment disputes. This increases investors' confidence and reduces uncertainty. Comparative experiences such as the Investment and Commerce Court in Qatar, the Economic Courts in Egypt, and investment promotion frameworks in Kuwait demonstrate the value of specialized institutional structures as an attractive and stable judicial guarantee (Al-Sawai, 2025). Economic studies demonstrate that improved judicial performance raises efficiency and growth, strengthens private property protection, resulting in increased capital flows (Saha et al., 2022).

b. *Distinction by Dispute Value:* The court differentiates disputes according to their value. Panels formed of three judges have jurisdiction over claims exceeding one hundred thousand (100,000) Omani Rials, as well as claims with indeterminate value. Panels formed of a single judge have jurisdiction over claims not exceeding one hundred thousand (100,000) Omani Rials. This distinction provides sufficient safeguards for investors in high value disputes, as the three judge circuits offer the needed judicial experience to handle such complex cases. This judicial distinction ensures that major disputes involving significant investment amounts receive a deeper level of scrutiny and legal expertise, strengthening confidence in the Omani judicial system (Humaidi & Rahman, 2023). Furthermore, this division helps to expedite the adjudication process for lower value cases, thereby reducing the burden on higher courts and allowing them to focus on more complex cases. Moreover, this specialized approach enhances accountability and transparency within the judicial apparatus, ensuring a more consistent application of investment and commercial laws and limiting the possibility of conflicting judgments (Azri & Jabir, 2017; Humaidi & Rahman, 2023). This increasing specialization in the Omani judiciary reflects a concerted effort to keep pace with

international best practices in investment related adjudication, enhancing the Sultanate's standing as an attractive destination for foreign investment (Buribayev et al., 2023; Humaidi & Rahman, 2023).

c. *Impact on the Investment Environment:* Judicial specialization, as represented by the Investment and Commerce Court, serves as an integrated guarantee tool, improving "judgment speed and quality of adjudication", and should be handled by judges "familiar with the nature of investment disputes and their financial and technical complexity". This, in turn, "increases investors' confidence and reduces uncertainty", as comparative experiences highlight "the value of specialized institutional structures as a stable and attractive judicial guarantee" for investment. Such judicial specialization ensures effective responsiveness to evolving legal and economic developments, maintaining the judiciary's ability to adapt to new challenges in the field of investment (Alanani, 2017; Bungenberg & Reinisch, 2019). Furthermore, this specialization provides a defined and clear judicial reference, making it easier for investors to assess the legal risks associated with their investments (Azri & Jabir, 2017). Some authors point out that countries employing efficient and specialized judicial systems attract larger investment inflows and enjoy higher economic growth rates (Almutairi & Mohammed Zain, 2024). Having a court specialized in investment disputes is a keystone in building a reliable judicial system, strengthening Oman's position as an attractive investment center, and allowing investors to rely on a clearly and stable defined legal environment (Humaidi & Rahman, 2023). Moreover, investors will benefit from the smoothness and simplicity of the judicial procedures offered by these courts, reducing the time and costs associated with resolving investment disputes an objective aligned with the new legislation in the Sultanate to facilitate the business environment (Humaidi & Rahman, 2023).

3.2. The Urgent Nature of Foreign Investment Disputes

The increasing prevalence of foreign investment disputes, along with economic challenges and the associated legal, is a key driver for exploring mechanisms that allow for swift and effective dispute resolution (Ranjeva, 2017) (Raslan, 2020). Recognizing that slow procedures present an obstacle to the investment environment, the Omani legislator accordingly decided to impart urgency to cases related to foreign investment. This is reflected in the Foreign Capital Investment Law, which

stipulates the need for prompt adjudication of such cases by the competent courts. Moreover, The law grants judges the authority to take interim measures to preserve the parties' rights until the final resolution of the dispute. Article 17 of the Foreign Capital Investment Law states: "Omani courts are competent to hear any dispute arising between the investment project and others. Investment project cases shall be treated as urgent matters when considered before these courts, and it is permissible to settle disagreements and disputes through arbitration". Undoubtedly, this approach reflects the Omani legislator's awareness of the importance of speedy settlement of investment disputes to guarantee a stable and attractive environment for foreign investors (Al-Siyabi, 2008). This direction is in line with international practices that attach the utmost importance to rapid and effective dispute resolution mechanisms for attracting foreign direct investment, as delays in resolving disputes are a primary barrier to capital inflows (AL Qahtani & Albakjaji, 2023).

In addition, This approach reflects the Omani legislator's pursuit of providing effective procedural guarantees for foreign investors, especially in the context of growing attention to economic development (Hirstt, 1992). This strategy is considered essential for attracting foreign capital (Al-Qahtani & Albakjaji, 2023).

The combination of clarity in national judicial jurisdiction and the characteristic of urgency enhances the quality of legal predictability for the foreign investor in the event of a dispute with others within the Sultanate and reduces procedural uncertainty. The institutional direction towards establishing an Investment and Commercial Court achieves first rate judicial specialization through dedicated circuits at each level of litigation, thereby improving both the speed and quality judgments (Qizi, 2021).

Given the distinctive nature of foreign capital investment disputes brought before national courts, it is permissible to ascribe urgency to them through a package of organizational and procedural arrangements aimed at ensuring effective judicial protection for the legal positions of foreign investors and speeding up adjudication. These arrangements are as follows:

3.2.1. Existence of a Specialized institutional Framework

Judicial circuits dedicated exclusively to foreign investment disputes are established, which enhances the efficiency of technical adjudication in complex

economic matters and ensures unified jurisprudence. These disputes are entrusted to judges with practical experience and training in investment laws, markets, and finance, thereby enhancing the accuracy of legal handling and the quality of reasoning. This is precisely what the establishment of the specialized Economic Court represented by the Investment and Commercial Court achieves.

3.2.2. Regulation of procedural timelines

Specified and Binding deadlines are set for each stage of litigation, including exchange of briefs, case registration, setting sessions, and issuing judgments, thus preventing procedural delays. Postponements are restricted to genuine, substantiated justifications, and penalties are imposed for violations. For example, the Law on the Simplification of Litigation Procedures, in Article 10, stipulates that the primary circuit must adjudicate the dispute within no more than thirty (30) days from the date the case is referred to it, with the possibility of one extension for a similar period if it is proven that the case cannot be resolved within the original time frame. As for disputes related to investment projects subject to the Foreign Capital Investment Law, it is permissible to exceed the referred period but not beyond a maximum of four(04) months for the extension (Royal Decree 125/2020, art. 10). Likewise, Article 28 of the Investment and Commercial Court Law requires the competent circuit, if it decides to issue an interim judgment, to do so within no more than ten (10) days from the date of referral. If the circuit decides to schedule a hearing for the case, it must set the date within no more than fifteen (15) days from the date of referral (Royal Decree 35/2025, art. 28).

This regulation of procedural timeframes is an important tool for achieving efficiency and speed in dispute resolution, as it enhances investor confidence and reduces delays by providing clear time expectations. This matches international experiences, which show that time management and specialization improve judgment quality and accelerate the resolution of complex investment cases (Al-Qahtani & Albakjaji, 2023; Bungenberg & Reinisch, 2019). Furthermore, this organization contributes to upholding the principle of preventive justice for investors by providing a swift and an efficient judicial pathway, supporting the stability of the investment environment and reducing the risks associated with protracted disputes (Vu, 2019).

3.2.3. Priority in Hearing Cases

Including foreign investment disputes among the top priorities for case proceedings, and giving them

precedence over other cases when parties are on equal footing, serves to protect cross border economic interests which inherently carry an urgent nature. This is ensured by scheduling hearings at successive and close intervals also preventing unjustified breaks between sessions. This prioritization is stipulated in Article 17 of the Foreign Capital Investment Law, and is further embodied in the establishment of a specialized investment court, which will start adjudicating investment disputes in October 2025.

3.2.4. Digital Transformation

Expanding the scope of electronic litigation in filing lawsuits, notifications, exchanging briefs and documents, and holding remote sessions when necessary to expedite trial cycles and reduce their costs are the characteristic of this transformation. This is achieved through the adoption of digital platforms for case management and scheduling, with electronic signatures on briefs and immediate access to case files. This is provided for in Article 19 of the Investment and Commercial Court Law, which states: "Claims within the court's jurisdiction, as well as ancillary requests, intervention, third party notices, and appeals against its judgments, shall be submitted through lawsuit or request, as applicable, filed and signed electronically, with prescribed fees paid electronically". Moreover, this approach is set forth in the Law on the Simplification of Litigation Procedures (Royal Decree 125/2020, art. 5). This transformation constitutes a significant tool to reinforce the urgent nature of foreign investment disputes, as it reduces the time required for administrative procedures by up to 50% in some international experiences, and saves foreign investors the costs of travel and accommodation, thereby enhancing efficiency and accessibility, also building trust in the judicial system (Buribayev et al, 2023). For instance, in Saudi Arabia, digital platforms have accelerated litigation and attracted greater foreign investment through improved speed and transparency (Almutairi & Mohammed Zain, 2024), an approach that Oman can further adopt to create a more attractive investment environment (Al Qahtani & Albakjaji, 2023).

3.2.5. Fast-Track Orders and Urgent Applications

This involves adopting expedited and simplified procedures for urgent and interim requests related to such disputes, such as preservation orders, injunctions, and expedited enforcement, to ensure the efficacy of rights at judgment. Specialized

chambers are empowered to issue provisional measures necessary to effectively and swiftly protect the rights and assets in dispute. This is mandated in the Investment and Commercial Court Law (Royal Decree 35/2025, art. 14, 15, 16). This fast-track is vital in encouraging foreign investment, as it provides immediate protection for investors' interests against urgent risks such as unfair enforcement, or asset encroachment, increasing confidence in the legal environment and reducing procedural uncertainty (Al-Siyabi, 2008). It aligns with international experiences demonstrating that speed in provisional measures accelerates dispute resolution and attracts capital flows (Al-Qahtani & Albakjaji, 2023; Vu, 2019). Delays in such measures are a main impediment to foreign direct investment, whereas expedited approaches foster economic development and stability (Qahtani & Albakjaji, 2023). Altogether, these measures create a judicial environment favourable to foreign investment, ensuring effective and swift protection of investors' rights and enhancing the Sultanate's appeal as an investment hub.

3.2.6. Procedural Discipline and Sanctions

Imposing appropriate measures or fines for unjustified delays or abuse of defences incentivizes procedural discipline and enables the court to impose procedural consequences for missed deadlines, such as considering a motion null or closing the pleadings when necessary. The Civil and Commercial Procedures Law ensures this effectively by providing special provisions for case termination, whether by dismissal or abandonment. This approach provides compelling support for enhancing judicial efficiency, as it ensures uniformity in judicial practice and reduces procedural prolongation that hampers foreign investment, providing clear time expectations for investors and boosting confidence (Buribayev et al., 2023). Moreover, It aligns with international practices in Saudi Arabia, New Zealand, and Singapore, where procedural reforms have improved the business environment and attracted larger capital inflows (Almutairi & Mohammed Zain, 2024; Al-Qahtani & Albakjaji, 2023), averting uncertainty and supporting economic stability, a key barrier to foreign investment (Al-Siyabi, 2008; Vu, 2019).

To conclude, the urgent nature of foreign investment disputes is aimed at achieving effective and prompt justice in investment disputes, enhancing confidence in the national judiciary and legal certainty, and serving as an incentive for attracting and sustaining investments. This leads to

reduced risk of delays and improved predictability of litigation outcomes.

In any case, the effectiveness and speed of dispute resolution are significant for building an attractive investment environment. Slow legal procedures are a major impediment to the flow and stability of foreign direct investment. Recognizing this, the Omani legislator has given special attention to “the urgent nature of foreign investment disputes”, as reflected in the Foreign Capital Investment Law issued by Royal Decree No. 50/2019 and its complementary legislation.

4. CONCLUSION

This study demonstrated that the Sultanate of Oman has taken important steps towards establishing a comprehensive legal and institutional framework aimed at strengthening the protection of foreign direct investment and attracting external capital, in line with the overarching goals of comprehensive economic development and Oman Vision 2040. The core of this approach is embodied in the Foreign Capital Investment Law issued by Royal Decree No. 50/2019, which serves as a fundamental pillar in creating an investment environment characterized by fairness, legal certainty, and transparency.

4.1. Main Results

The main results of this study revolve around several significant themes, which can be highlighted as follows:

Integrated Legal Protection Approach: to provide adequate legal guarantees for foreign investors Oman has adopted a comprehensive strategy. This protection is reflected in explicit provisions that prohibit the confiscation, seizure, or freezing of investment projects and their assets except by judicial order. In addition, These provisions ensure fair and prompt compensation in cases of expropriation for public benefit and set severe procedural restrictions on cancelling approvals or licenses, including written notice to the investor, the requirement for a justified decision, a period to remedy any violations, and the opportunity to be heard.

Balancing Investor Rights and National Interests: the importance of achieving a delicate balance between protecting the rights of foreign investors and upholding the requirements of national sovereignty and public interest is emphasized by Omani legislation, particularly in contexts such as dealing with tax debts or expropriation for public benefit.

Commitment to International Standards and

Agreements: Omani legislation adherence to international investment protection standards is reflected, especially concerning dispute resolution mechanisms. Oman is a party to several international agreements, such as Enforcement of Foreign Arbitral Awards and the New York Convention on the Recognition, providing investors with reliable means for dispute resolution and ensuring the respect for international arbitration decisions.

Effective Dispute Resolution Mechanisms: locally or internationally, the law gives foreign investors the freedom to choose between resorting to national courts or arbitration. the establishment of a specialized Investment and Commercial Court have reinforced These mechanisms, aimed at unifying judicial interpretations, providing judges with specialized expertise in investment disputes and expediting litigation procedures, and to ensure their swift resolution, investment cases have been classified as urgent.

Role of an Independent Judiciary: Omani lawmakers emphasize the crucial role of an independent judiciary as a fundamental safeguard for protecting investor rights and enhancing economic stability, as stipulated in the country's highest and most significant legal statutes the Basic Statute of the State.

4.2. Recommendations

The study offers the following recommendations to further enhance the attractiveness of the investment environment:

- **Establishment of a Specialized Investment Council:** This council would help streamline business processes and unify investment-related to policies, facilitating investor procedures and reducing bureaucracy.

- **Supporting the National Arbitration Centre:** by strengthening the role of the National Arbitration Centre in Oman, it would provide effective and reliable alternatives for dispute resolution and lessen reliance on the judiciary.

- **Training and Skills Development:** to ensure the highest levels of efficiency and professionalism in handling these complex disputes, ongoing training for judges and legal sector employees in the specifics of foreign investment cases is essential.

Oman's commitment to providing a safe and attractive investment environment is reaffirmed by these results and recommendations, while admitting the current need to develop legal and institutional frameworks to address global challenges and ensure sustainable economic growth. The balanced approach that combines adherence to international

standards, comprehensive legal protection, and provision of effective dispute resolution mechanisms places Oman among the countries that are actively

working to attract and retain foreign investments to achieve their development goals.

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