

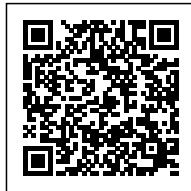
ZAHAF & PARTNERS AND THE FUTURE OF INVESTMENT IN LIBYA

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With Suzan Taha

After years of economic isolation, Libya is ready to welcome the world by announcing various investment opportunities. Several laws were enacted to provide investors with various benefits, offering several investment incentives, which stem from the country's desire to make Libya a more attractive investment destination.

LegalcommunityMENA sits down with one of Libya's most prominent legal professionals **Saleh Mohammed Zahaf** (pictured), founder of [Zahaf & Partners Law Firm](#), who sheds some light on the Libyan legal community and the reforms to the country's business climate.

Tell us a little bit more about the community in Libya

The Bar Association was established in 1962 and was one of the first unions in the Arab world – initially headed up by Professor Ali Ragab. The Bar currently also includes auxiliary committees, including the Women's Affairs Committee, the Young Lawyers Committee and other cultural committees.

Encompassing various categories of law practitioners, including notaries and members of the general prosecutor's office, the community began to flourish following a change in the legal system in 1990 to allow individuals to practise law outside the public sector.

What about your law firm, Zahaf & Partners?

I established Zahaf & Partners Law Firm in 1990, shortly after the laws governing the work of lawyers were liberalised. The firm boasts the largest team of lawyers in Libya and is led by three partners and a managing partner. It is thanks to the firm's size and in-depth market knowledge that it can offer expert advice on such a broad range of sectors that few other firms can.

The firm takes every opportunity to foster mutually beneficial relationships with the likes of national and international audit and tax advisory firms, and eminent jurists and professors of law. Zahaf & Partners also has cooperation agreements with internationally renowned law firms, such as [BonelliErede](#).

How are your professionals equipped to handle the newly implemented changes to the Libyan Investment law and foreign investors?

Our team undergoes rigorous local and international training to ensure they are equipped to maintain our standard of excellence throughout the country's turbulent political climate. And with a multi-cultural and multi-lingual team – English, Arabic, French, and Italian – international clients need not worry about communication barriers whatsoever.

Speaking of change, what are the main highlights of the new investment law?

The law lifted a number of foreign direct investment restrictions and introduced a series of incentives to encourage private investment. Such as a five-year exemption from income tax for foreign and local investors, an exemption from customs duty on machinery and equipment as well as one on tax and governmental fees on distributions and gains from a sale or change in the legal form of an investment project.

What does the new law mean to foreign investors?

An additional period of tax benefits is granted to investors that contribute to food security, energy or water production, or environmental protection.

Foreign investors also have the guaranteed right to transfer profits from investment projects, to sell projects in whole or in part and, if a given investment is not completed, to return foreign capital abroad. The Investment Law also provides procedural protection of investment projects by giving investors the right to resort to national or international arbitration or to the Libyan judiciary to resolve disputes arising from the implementation of investment projects.

Libya has not ratified the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. How does this reflect on foreign entities and what guarantees are offered?

As Libya has not ratified the New York Convention, Libyan law allows foreign arbitral awards to be enforced under the same conditions that permit enforcing foreign court decisions in Libya. A foreign arbitral award is guaranteed enforcement if it adheres to the condition under Libyan Law, namely that the award was issued by a competent court in accordance with the law of the country in which it was issued.

These conditions also require that the award be enforceable under the law of the country in which it was issued. Additionally, the litigants must have been notified and properly represented, and the related foreign ruling must not conflict with a previous Libyan ruling.

Finally, awards must not violate public order. Libyan law stipulates that for a foreign award to be enforced in Libya, it must not include anything that violates morals or the rules of public order.

The law is also clear on matters in which arbitration is not permitted as a dispute resolution method because of the public order principle under Libyan law. These matters include disputes concerning obtaining nationality and disputes concerning marital separation.

Libya is rich in natural resources; utilization of foreign expertise is essential for its success. What advise do you give to investors looking into establishing a business in Libya?

Abundant natural resources provide many opportunities for local and foreign investors, but Libya does present a challenging investment climate. From a legal perspective, we recommend that investors ensure that they strictly adhere to Libyan investment laws, have all the required licences and fully understand all the legal requirements that need to be met for investment projects.

Dealing with employment aspects of investment projects can also be challenging for investors, as Libyan labour law is very stringent.