

The Historical and Legislative Stages of Industrial Real Estate and Its Position in Investment Laws under the Socialist System

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Abstract:

Real estate is one of the most important and indispensable resources in investment projects. The need for it has increased with the recent expansion of its scope and has become linked to the general status of real estate ownership. In light of the economic reforms, the Algerian state has pursued multiple policies aimed entirely at achieving integrated development. During these policies, it has worked to encourage both local and foreign investment, and has subsequently gained significant experience in legislating and regulating investments.

The study generally aims to identify industrial real estate and trace the most important historical and legislative stages regulating it, starting from independence, and tracing its role under investment laws in Algeria until the 1989 Constitution, and highlighting its role as an accompanying real estate portfolio, by conveying the experience of Algeria like other countries encouraging investment and covering the most prominent historical, administrative and legislative problems recorded, and the mechanism for dealing with them.

Therefore, the problem was: What is industrial real estate and its importance in formulating real estate policies and what was its status within the investment laws in Algeria before the 1989 Constitution?

To reach multiple results, the most prominent of which are :

- The colonial era had a significant impact on development paths and investment in Arab countries.
- The connection between the legislative development of investment and the legislative development of real estate, which confirms the relationship between investment and the real estate policy of any country, positively and negatively, and raises the necessity of adopting specialization in framing real estate (industrial, agricultural, urban, touristic ...) To ensure greater investment efficiency.
- Differences and variations in investment management according to the value of the property and its location in the country itself, which requires guidance and accompaniment in the first phase to chart its course and create the social, economic and legislative conditions for it .

In light of the shortage of prepared, disinfected and sufficient real estate, it is preferable to turn to the service sector, especially within the framework of the knowledge economy, technology transfer, and digitization of the investment process.

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In this context, this study conveys an aspect of the experience adopted by Algeria, which played a prominent role after this period in establishing basic legislation and accompanying mechanisms to ensure investment efficiency and control real estate ownership.

Keywords: Industrial real estate; Real estate reserves; Vacant; Nationalization; Investment.

Introduction

Real estate is considered one of the most important, prominent, and indispensable resources for investment projects, given its contribution to the field of economic development. The importance of investment-oriented real estate has also increased with the recent expansion of investment activities, and this development has become closely linked to the general status of real estate ownership.

Within this framework, and in light of the economic reforms, the Algerian state has adopted various policies aimed, in their entirety, at achieving integrated economic development. In this regard, it has worked to promote both domestic and foreign investment, particularly following the adoption of the policy of economic openness. After pursuing this approach, Algeria acquired considerable experience in legislating and regulating investments.

On this basis, most countries, including Algeria, have sought to establish a legislative framework governing real estate ownership, whether public or private. Legislative and regulatory frameworks, as well as the mechanisms and procedures for transferring real estate ownership or allocating it for investment purposes, vary according to the nature of the property, whether agricultural, industrial, or tourism-related.

Accordingly, in order to identify the legal foundations governing investment-oriented real estate, this study requires an examination of the various legal texts relating to investment, the Land Orientation Law, the State Property Law, and, in particular, the Finance Law. On this basis, we will focus on the study of public real estate assets, excluding real estate assets governed by private law.

Industrial real estate constitutes a fundamental component of economic investment and the most appropriate basis for initiatives related to industrial investments. Consequently, it represents an important factor contributing to the prosperity of enterprises within a positive environment. Within the framework of its various policies aimed at developing and promoting investment, Algeria has undertaken efforts to establish a framework for providing suitable and properly equipped real estate sites capable of accommodating industrial activities. This was intended to meet the real estate needs of all public and private economic operators, whether national or foreign.

There is no doubt that the economic and political transformations experienced by Algeria have affected its real estate policy, including the Agricultural Revolution Law, which was subsequently abandoned and underwent certain changes beginning in the 1980s. This resulted in a considerable body of legal texts reflecting this transformation in the fields of agricultural, industrial, and tourism-related real estate. Of particular relevance to the present study are the major stages in the development of industrial real estate in Algeria prior to the promulgation of the 1989 Constitution.

Research Problem

What is industrial real estate, what is its importance in shaping real estate policies, and what was its status under investment laws in Algeria prior to the 1989 Constitution?

This main research problem gives rise to two subsidiary questions:

What were the major stages in the development of industrial real estate in Algeria?

What were the main laws governing industrial real estate in Algeria prior to the 1989 Constitution, and what was its status under investment legislation?

Research Methodology

To address the above research problem, more than one scientific method was adopted, in view of the nature and specificity of the study. The historical method was employed to trace the major stages through which industrial real estate evolved. The descriptive method was also used to collect and present the relevant legal texts as a preliminary step toward their analysis, which led to the adoption of the analytical method.

Structure of the Study

This research study has been divided into two main sections, as follows:

Part One: Definition of Industrial Real Estate and Its Main Historical Stages

First: Definition of Industrial Real Estate

Second: Historical Origins of Industrial Real Estate

Part Two: Legislative Stages of Industrial Real Estate Prior to the 1989 Constitution and Its Status under Investment Laws

First: Legislative Stages of Industrial Real Estate in Algeria after Independence

Second: Status of Industrial Real Estate under Investment Laws

Part One: Definition of Industrial Real Estate and Its Main Historical Stages

First: Definition of Industrial Real Estate

There are several definitions of industrial real estate. Among these definitions is the following: “Industrial real estate (le foncier industriel) refers to the space allocated to industrial activities, which is referred to by sector professionals as industrial real estate in order to distinguish it from agricultural and urban real estate. In this context, Article 3 of Executive Decree No. 07-119, dated 5 Rabi‘ al-Thani 1428 AH, corresponding to April 23, 2007, establishing the National Agency for Real Estate Intermediation and Regulation and defining its statutes, uses the term ² ‘public economic land’ (public économique foncier), referring to public lands belonging to the private domain of the State and its institutions. However, the legislation regulating real estate in Algeria has not established a clear and specific definition of industrial real estate, unlike agricultural real estate ³ and urban real estate ⁴

Industrial real estate may also be defined as “a parcel of land belonging to the public or private domain of the State, which is developed and prepared to serve as the site of an establishment, factory, or investment project.” It has also been defined as “a set of real properties intended and allocated for the implementation of industrial or investment projects.”⁵

² Executive Decree No. 07-119, dated 5 Rabi‘ al-Thani 1428 AH, corresponding to April 23, 2007, establishing the National Agency for Real Estate Intermediation and Regulation and defining its statutes, Official Gazette No. 27.

³ Among the laws regulating agricultural real estate are:

Law No. 08-16, dated 1 Sha‘ban 1429 AH, corresponding to August 3, 2008, concerning agricultural orientation, Official Gazette No. 46, dated August 10, 2008.

Law No. 10-03, dated 5 Ramadan 1431 AH, corresponding to August 15, 2010, defining the conditions and procedures for exploiting agricultural lands belonging to the private domain of the State, Official Gazette No. 46, published on August 18, 2010. This law repealed Law No. 87-19, dated 17 Rabi‘ al-Thani 1408 AH, corresponding to December 8, 1987, concerning the regulation of the exploitation of agricultural lands belonging to the national domain and the determination of producers’ rights and obligations, Official Gazette No. 50, published on December 9, 1987.

⁴ Executive Decree No. 23-490, dated 15 Jumada al-Thani 1445 AH, corresponding to December 28, 2023, establishing the National Agency for Urban Real Estate and regulating its organization and operation, Official Gazette No. 85, published on December 30, 2023.

⁵ Amal Mechti and Amekrane Radia, “Industrial Real Estate and Investment in Algerian Legislation,” Sawt Al-Qanun Journal, Khemis Miliana University, Vol. 9, No. 2, 2023, p. 399.

Accordingly, this definition encompasses all real properties intended for such purposes, regardless of their legal classification, whether they are owned by the State, by private individuals, or constitute waqf property.⁶

Industrial real estate has also been defined as “any land, facility, or building, including its appurtenances, that is developed and designated for industrial use or for the storage of industrial products, without disregarding movable property that becomes immovable by destination by virtue of its connection with and service to the real property to which it is allocated.”⁷

Ultimately, industrial real estate may be defined as “a parcel of land belonging to the public or private domain of the State, which is developed and prepared to serve as the site of an establishment, factory, or investment project.”

Second: Historical Origins of Industrial Real Estate

The historical roots, origins, or emergence of industrial real estate can be traced back to Britain, particularly to the industrial estate known as “Trafford Park Estate,” which was developed by the Manchester Industrial Estate in 1896. It was established as an industrial zone to combat unemployment, which became increasingly severe following the 1929 economic crisis. This model subsequently spread throughout the world, leading many countries to adopt this policy. The United States of America, for example, established its first industrial zone in Chicago in 1899. Today, the United States has more than 300 industrial zones, placing it at the forefront globally. Europe subsequently followed this model, with the establishment of a public industrial zone in Italy in 1904.⁸

In Algeria, the French authorities initiated the Constantine Plan (1959–1963) as the first experiment of its kind. It aimed to implement an industrial policy over a five-year period and to relocate industries concentrated in Algiers or redistribute them to the surrounding suburbs. This objective was reflected in their relocation to the industrial zone of Rouiba, Reghaïa, and other areas.⁹

The legislative development of industrial real estate has been closely linked to industrial investment, which constitutes a fundamental engine for achieving the State’s economic growth. Industrial investment, in turn, has been influenced by the historical context of the political and economic system experienced by the Algerian State since independence. Several investment regimes have consequently emerged.

Therefore, the legislative development of industrial real estate cannot be examined without considering the legislative development of industrial investment. Both investment and land policy in Algeria have undergone multiple and diverse regimes, varying according to the historical and political stages through which the country has passed. This has prompted us to examine the legal development of industrial real estate. Indeed, studying the nature of the land regime in Algeria after independence requires distinguishing between two principal stages: the socialist system and the market economy system.

Section Two: The Legislative Stages of Industrial Land Prior to the 1989 Constitution and Its Status under Investment Laws

During this period, the Algerian State moved towards consolidating and expanding state ownership of land while restricting private ownership. It adopted the socialist system, based primarily on the public sector, and promoted the establishment of public economic enterprises.

⁶ Ahmed Djebbouri, Unpublished Lectures Delivered to First-Year Master’s Students under the Title “Industrial Real Estate”, Faculty of Law, University of Dr. Yahia Fares of Médéa, 2011/2012, p. 5.

⁷ Asmaa Mansour, Valuation of Real Estate Intended for Industrial Investment, Doctoral Dissertation in Law, Specialization: Real Estate Law, University of Algiers 1 Benyoucef Benkhedda, Algeria, 2021, p. 73.

⁸ Mouaz Cherbali, Industrial Real Estate Exploitation Contracts, Doctoral Dissertation in Law, Specialization: Private Law, Faculty of Law and Political Science, Department of Law, Ibn Khaldoun University, Tiaret, 2020/2021, p. 2.

⁹ Abdallah Belounas, The Algerian Economy: Transition from the Plan to a Market Economy and the Extent to Which Economic Policy Objectives Have Been Achieved, State Doctorate Dissertation in Economic Sciences, Specialization: Money and Finance, Faculty of Economic Sciences and Management, University of Algiers, 2004/2005, p. 17.

Consequently, the land tenure system underwent a radical transformation in terms of its nature and organization following the restoration of national independence. At that time, the authorities undertook several initiatives aimed at preserving the national land wealth. This period was also characterized by the State's monopoly over most investment sectors and activities, a policy that had an impact on industrial development, particularly during the 1970s. This was especially evident in the emergence of industrial zones¹⁰

During this period, the State sought to establish systems for the exploitation of industrial land. It should be noted that there were no specific legal provisions regulating industrial land during this period. Nevertheless, we will examine the various legal texts that were, in one way or another, related to it, through an analysis of investment laws and the provisions associated with them, which were themselves closely connected to industrial land. This period was characterized by the enactment of two investment laws: the Investment Law of 1963 and the Investment Law of 1966. Based on these two laws, we will attempt to determine the status of industrial land during this period.

First: The Legislative Stages of Industrial Land in Algeria after Independence

Following independence, Ordinance No. 62-157, dated 31 December 1962, was enacted, providing for the extension of the application of French laws. This ordinance was subsequently repealed by Ordinance No. 73-29¹¹ The French legislation remained in force, except for provisions affecting national sovereignty, those of a colonial or racist nature, and those infringing upon democratic freedoms. At the same time, the government intervened through a set of legal texts aimed at restoring, insofar as possible, property to the domain of the national public property, particularly following the mass departure of the settlers from their farms, which had a negative impact on the national economy. The most important of these legal texts may be presented through the following stages:

1. The Stage of Managing Vacant Property and Placing It under State Protection

The laws governing land in Algeria continued for a considerable period to bear the imprint of the structures imposed by colonial rule, as well as that of the measures adopted following independence, contrary to what had been expected from the authorities with regard to land regulation. Among the most important legislative texts enacted at the time were the following:

A. Decree No. 62-03 of 23 October 1962, on the Regulation of Transactions Involving Vacant Property¹²

This decree stipulated that all transactions involving vacant property, including sales and leases, were prohibited, except for those carried out for the benefit of the self-management committees established pursuant to Decree No. 62-02 of 22 October 1962, or on behalf of public authorities.

B. Decree No. 62-20 of 24 August 1962, on the Protection and Management of Vacant Property¹³

This was the first legal text issued in the agricultural field, with the aim of preserving properties abandoned by their owners who had left the national territory. It provided for the possibility of administering and managing this category of property by the prefect, particularly where it was established that the properties had not been exploited for a period of two months, commencing from the date of publication of the decree in the Official Gazette.

¹⁰ Nouria Ghamnia, *The Role of Industrial Land in Promoting Investment*, PhD Dissertation in Private Law, Specialization: Fundamental Civil Law, Faculty of Law and Political Science, Abdelhamid Ibn Badis University of Mostaganem, 2021/2022, p. 21.

¹¹ Ordinance No. 73-29 of 5 Jumada al-Thani 1393 AH, corresponding to 5 July 1973, providing for the repeal of Law No. 62-157 of 31 December 1962, which extended, until further notice, the effect of legislation in force as of 31 December 1962, Official Gazette, No. 62, issued on 3 August 1973.

¹² Decree No. 62-03 of 23 October 1962, prohibiting transactions involving vacant property, Official Gazette, No. 14 of 1962.

¹³ Decree No. 62-20 of 24 August 1962, concerning the protection and management of vacant property, Official Gazette, No. 12 of 1962.

C. Decree No. 63-88 of 18 March 1963, on the Regulation of Vacant Property

This decree defined the concept of vacant property, as well as its various cases and categories. It was enacted with the aim of putting a definitive end to the crisis caused by the departure of French and European nationals, as well as Algerians loyal to France, who refrained from fulfilling their obligations as actual property owners. Article 11 of this decree provided that:

“The vacancy of such property may be declared by the prefect (Déclaration de Vacance).”

Following the declaration of vacancy of these properties through prefectural decisions, the Algerian administration undertook to identify and inventory them in order to ensure their proper management. This task was entrusted to a department at the wilaya level known as the Provincial Housing Office (S.L.W.).

d – In addition to certain regulatory decrees, including: Decree No. 63-168, dated 9 May 1963, concerning properties in an irregular legal status; Law No. 63-276, dated 26 July 1963, relating to properties seized or confiscated by the colonial authorities; and Ordinance No. 64-258, dated 27 August 1964, which established a committee for the confiscation of the property of persons whose actions were detrimental to the interests of the socialist revolution.¹⁴

2. The Stage of Transferring Vacant Properties to the State

This was carried out as follows:

a – Ordinance No. 66-102, dated 5 June 1966, concerning the transfer of vacant properties to the State: This Ordinance provided for the incorporation and transfer of all vacant properties into the State's property holdings, thereby placing them at the State's disposal, subject to the conditions established by law. This Ordinance is considered one of the key legal references still applied by the State's administrative authorities, particularly in determining the title and ownership origin of real estate intended for sale.

b – Placing vacant properties under State protection and the procedures for challenging such measures: On 9 May 1963, Decree No. 63-168 was issued with the aim of placing movable and immovable property under State protection,¹⁵ on the grounds that the manner in which such property was acquired, exploited, or used could result in a breach of public order (*ordre public*) or social peace (*paix sociale*). This measure was intended to identify properties belonging to Algerian citizens and persons who had demonstrated conduct hostile to the liberation revolution, by allowing the State to intervene in their management and deprive the owners of control over them, particularly agricultural properties. The conditions for placing property under State protection were as follows:

The manner in which the owner acquired the property must have been contrary to the applicable legal provisions.

The manner in which the property was exploited or used must have had a negative impact on public order or social peace.

A decision must have been issued by the Prefect (Wali) ordering that the property be placed under State protection. However, in practice, many such decisions were not published, and even the notification procedures required by the decree itself were not observed. Consequently, judicial decisions were issued recognizing the original owners' right to recover their property, expressly acknowledging the possibility of recovering land placed under State protection by its owners, subject to the conditions laid down by Ordinance No. 95-26.¹⁶

¹⁴ For further information, see: Mohamed Hadjari, “The Issue of Industrial Property,” *Al-Wahat Journal for Research and Studies*, University of Ghardaïa, No. 16, 2012, p. 335.

¹⁵ Decree No. 63-168, dated 9 May 1963, concerning the placement of movable and immovable property under State protection, *Official Gazette of the People's Democratic Republic of Algeria*, No. 30, 1963.

¹⁶ Article 15, which added Article 85 bis 1 to Ordinance No. 95-26, containing the Land Orientation Law No. 90-25.

It should also be noted that the Algerian legislator enacted Decree No. 63-222, dated 28 June 1963, concerning challenges to prefectural decisions placing property under State protection. This decree granted the persons concerned a period of one month to initiate an administrative appeal, calculated from the date on which the prefect's decisions were notified by registered letter with acknowledgment of receipt to the competent prefect.¹⁷

Second: The Status of Industrial Land under Investment Laws

Following independence, Algeria experienced a significant legislative vacuum. Consequently, French legislation continued to apply insofar as it did not conflict with national sovereignty.¹⁸ This was reflected in the enactment of Ordinance No. 62-157 of 31 December 1962. The State also issued a number of legal instruments and regulatory decrees providing for various precautionary measures aimed at protecting and preserving the land stock. In addition, the Investment Law of 1963 was enacted. Accordingly, the following aspects will be examined:

1. The Status of Industrial Land under the 1963 Investment Law

Following independence, the Algerian State issued Decree No. 62-03 of 23 October 1962 concerning the prohibition of disposing of vacant property.¹⁹ This decree was intended to prohibit real estate transactions, with the aim of preventing the appropriation of such real estate for nominal prices through the conclusion of suspicious contracts. Subsequently, Ordinance No. 62-157 of 31 December 1962, referred to above, was enacted, under which various legal provisions relating to real estate, including industrial land, remained in force. For instance, this included the continued application of provisions relating to State property, as well as those governing land registration.

The Algerian State also enacted its first investment law in 1963, namely Law No. 63-277 of 26 July 1963. Its principal objective was to attract foreign capital and encourage foreign investors, whether natural or legal persons. The law provided for several general guarantees applicable to all foreign projects, the most important of which were freedom of investment for foreign natural and legal persons; freedom of movement and residence for the employees and managers of such enterprises; equality before the law; and guarantees against expropriation.

In addition, the law provided for special guarantees for enterprises established through an agreement. These included newly established enterprises or the expansion of existing enterprises whose investment programme involved an amount of five million Algerian dinars over a period of three years, provided that the project was implemented in a priority sector or created more than 100 permanent jobs for Algerians.²⁰

It should be noted in this regard that some researchers have identified the existence of only two investment projects under this law, approved by two decisions dated 2 and 29 December 1965.²¹ Nevertheless, the 1963 Investment Law did not achieve the expected success. This can be attributed to several reasons, including the following:

The incompatibility of the provisions of the law with the prevailing reality: Algeria undertook nationalization operations during 1963–1964, which made the implementation of the Investment Law difficult, particularly because of investors' fears of nationalization.

The failure to enact the implementing regulations of the law: This prevented the provisions of the law from being effectively implemented.

¹⁷ Article 1 of Decree No. 63-222, dated 28 June 1963, concerning challenges to prefectural decisions placing property under State protection, Official Gazette of the People's Democratic Republic of Algeria, No. 44, 1963.

¹⁸ Article 1 of the aforementioned Ordinance No. 62-157.

¹⁹ Decree No. 62-03 of 23 October 1962, concerning the prohibition of disposing of vacant property (Official Gazette, No. 14, 1962).

²⁰ Kamel Aliouche Kerboub, *Investment Law in Algeria*, Office of University Publications, Algeria, pp. 6–7.

²¹ Nadji Ben Hussein, *An Analytical Study of the Investment Climate in Algeria*, PhD Dissertation in Economic Sciences, Faculty of Economic Sciences and Management, Mentouri University of Constantine, 2006/2007, p. 111.

The imposition of numerous restrictions on investments carried out under the law: The legislature imposed a number of requirements that placed a considerable burden on investors. These included the obligation to obtain approval from the National Investment Commission and to contribute to the training of Algerian executives. Investors were also required to submit semi-annual reports to the competent authorities in order to monitor the investment programme and assess the investor's compliance with its implementation. In the event of a failure to fulfil these obligations, the investor's approval would be withdrawn after being formally notified and granted a period ranging from one to three months to remedy the breach.²²

Given that the State was preoccupied during this period with recovering national wealth, it can be argued that the period between 1963 and 1966 was characterized by a limited number of investment projects, particularly since the legislature's primary concern was to preserve the acquired land stock. Consequently, little importance was attached to establishing a foundation for industrial and development-oriented investment projects or to providing incentives for investors.²³

2. The Status of Industrial Land under the 1966 Investment Law

This period witnessed significant growth in the field of industrial investment, as most industrial investment projects were established during this period, which began with the enactment of the 1966 Investment Law. The new Investment Law was promulgated under Ordinance No. 66-284 of 15 September 1966.²⁴ This law contained a number of provisions and rules, some of which concerned Algerian nationals, i.e. domestic investment, while others concerned foreign investment. According to some legal scholars, the law gave considerable attention to domestic investment, in contrast to foreign investment.²⁵

The law also introduced a number of specific provisions, including the State's monopoly over investment projects in sectors that were vital to the national economy. This raises the question of the meaning and scope of "vital sectors." By referring to the Investment Law, it is found that Paragraph 3 of Article 2 of Ordinance No. 66-284 referred the determination of the concept of vital sectors to the regulatory framework.²⁶ However, the relevant regulatory text was never ultimately issued. Instead, under Article 4 of the aforementioned Ordinance, the legislator merely identified the beneficiaries of such projects as Algerian or foreign natural and legal persons, where the projects involved the establishment or development of industrial or tourism enterprises capable of increasing the nation's productive capacity.²⁷

In practical terms, the determination of the nature of private investment projects was left to the investment committees responsible for granting authorizations, pursuant to Articles 20 to 27 of the aforementioned Ordinance.²⁸ During this period, two types of committees existed: the National Investment Committee and the Regional Investment Committees, which will be examined below:

The National Investment Committee: Its operation was regulated under the relevant legislation. The committee was chaired by the Minister of Finance and Planning, or by a representative thereof, and consisted of representatives of various ministries.²⁹ The Algerian Development Fund (CAD) was responsible for providing the committee's secretariat. The committee was competent to examine private investment projects whose amount exceeded DZD 500,000.

²² Abdelkrim Badaache, *Foreign Direct Investment and Its Impact on the Algerian Economy during the Period 1996–2005*, PhD Dissertation in Economic Sciences, Specialization: Money and Finance, Faculty of Economic Sciences and Management, University of Algiers, 2007/2008, p. 157.

²³ Nouria Ghamnia, *op. cit.*, p. 24.

²⁴ Ordinance No. 66-284 of 15 September 1966, containing the Investment Law, Official Gazette of the People's Democratic Republic of Algeria, No. 88, dated 17 September 1966.

²⁵ Adja Djilali, *Al-Kamil fi al-Qanun al-Jaza'iri lil-Istithmar: al-Anshita al-'Adiya wa Qita' al-Mahrouqat* [The Complete Guide to Algerian Investment Law: Ordinary Activities and the Hydrocarbons Sector], n.p., Dar al-Khaldounia, Algeria, 2006, p. 36.

²⁶ Article 2(3) of Ordinance No. 66-284, containing the Investment Law.

²⁷ Article 2(3) of Ordinance No. 66-284, containing the Investment Law.

²⁸ Article 4 of Ordinance No. 66-284, containing the Investment Law.

²⁹ Articles 20–27 of Ordinance No. 66-284, containing the Investment Law.

The Regional Investment Committee: This committee was chaired by the Wali (Governor) and consisted of the executive directors of the wilaya. It was competent to grant authorization for private investment projects whose amount did not exceed DZD 500,000.³⁰

3. The Status of Industrial Land during the 1980s:

The most significant feature of this period was the enactment of the 1982 Investment Law and the 1988 Investment Law. These two laws contained numerous provisions aimed at promoting domestic investment and granting incentives to investors, in addition to the issuance of regulations governing the administration and management of industrial zones.

This period witnessed a number of procedures concerning the manner in which investment projects were authorized, with a distinction being made between domestic and foreign investment. During this period, a regulatory text governing the administration and management of industrial zones was also issued. Investment Ordinance No. 66-284 was repealed and replaced by Law No. 82-11 on private economic investment,³¹ which was subsequently repealed by Law No. 93-12, and Law No. 82-13 on the regulation of investment activities outside the hydrocarbons sector by foreigners in Algeria.³² Thus, the Algerian legislator distinguished between domestic and foreign investors by establishing a separate investment law for each category. This indicates the existence of a difference in the legal status of domestic and foreign investors.

Furthermore, Article 1 of the aforementioned Law No. 82-11 defined the fields of application of the law by way of example,³³ and referred to the regulatory framework for their precise determination. Accordingly, Decree No. 83-101 was issued to specify the procedures for determining the fields in which the national private sector could operate.³⁴

However, it should be noted that the latter merely reproduced the provisions set out in Investment Law No. 82-11, as it listed the fields of investment by way of example, including the following:

Service activities, particularly industrial repair and maintenance of manufacturing machinery, as well as the general maintenance of small equipment.

Complementary small and medium-sized industries, particularly those engaged in the processing and transformation of locally sourced agricultural raw materials or products intended for household consumption.

Marine fishing and other activities carried out in the high seas.

Subcontracting, within the meaning of the applicable legislation and regulations.

Construction and public works.

Tourism and hotel services, as well as related services.

Land transportation of passengers and goods, in accordance with the applicable laws and regulations.³⁵

In addition, the Algerian legislator stipulated that national investments were to be granted prior approval after consultation with the National Commission or the Wilaya Commissions responsible for planning and urban development. The Wilaya Commission was chaired by the

³⁰ Nouria Ghamnia, *op. cit.*, p. 25.

³¹ Adja Djilali, *op. cit.*, p. 46.

³² Law No. 82-11 of 2 Dhu al-Qi'dah 1402 AH, corresponding to 21 August 1982, on private economic investment, Official Gazette of the People's Democratic Republic of Algeria, No. 34, dated 24 August 1982.

³³ Law No. 82-13 of 28 August 1982, on the regulation of investment activities outside the hydrocarbons sector by foreigners in Algeria, Official Gazette of the People's Democratic Republic of Algeria, No. [number not provided], dated 31 August 1982.

³⁴ Article 1 of Law No. 82-11 on private economic investment.

³⁵ Article 11 of Law No. 82-11 on Private Economic Investment.

Wali and was competent to decide on applications for approval where the investment amount exceeded three million Algerian dinars. Where the project benefited from financial and tax incentives and the granting of approval fell within the jurisdiction of the Wilaya Commission, the legislator required the application file to be referred to the National Commission for its opinion regarding the granting of such incentives.³⁶

It should also be noted that Decree No. 83-99 was issued during this period, providing for the establishment, organization, and functioning of the National Approval Commission and the Wilaya Approval Commissions. Another body was also established, namely the National Office for the Promotion of National Private Investment, which was a public institution of an administrative nature. It operated in coordination with the national and wilaya commissions responsible for examining applications for approval. This body was established pursuant to Decree No. 83-98.³⁷

With regard to foreign investment, during this period the Algerian legislator enacted a specific investment law, namely Law No. 82-13, referred to above. Such investment was limited to mixed companies involving one or more Algerian public parties and one or more foreign parties. These projects were implemented pursuant to an agreement between the Algerian and foreign parties, provided that such agreement was approved by a joint ministerial order. This agreement was governed by the 49–51% rule, whereby the majority was granted to the Algerian party. The latter also retained the right to direct and supervise the investment activity. The greater control exercised by the Algerian party was further reflected in its chairmanship of the project's Board of Directors. In addition, the investment period was set at 15 years, renewable when necessary by means of an additional agreement protocol, which required approval by a joint ministerial order.³⁸

It may be observed that the provisions of this law contained several shortcomings, including restrictions imposed on foreign investors, which could discourage them from investing in Algeria. In order to remedy these shortcomings, the Algerian legislator amended and supplemented Law No. 82-13 through Law No. 86-13 on the establishment and operation of mixed-economy companies (combining public and private/foreign capital). This law aimed to promote joint investment and establish rules governing the operation of such companies during the 1980s by reducing the burdens imposed on foreign investors and granting them certain powers concerning the management of the project. It provided that: "This law guarantees the foreign party or foreign parties the right to participate in the management and decision-making bodies." Its second paragraph also recognized the right of the foreign party to transfer profits abroad.³⁹

Conclusion

Based on the foregoing study and analysis of the role of industrial land throughout its various historical stages, as well as its status under investment legislation, we have been able to draw a number of conclusions and formulate several recommendations concerning this subject, as follows:

Findings

There is no legal definition of industrial land, and there are multiple doctrinal definitions relating to industrial land.

Manchester, England, represents one of the earliest experiences in the development of industrial land at the end of the nineteenth century. This experience was subsequently transferred to the

³⁶ Article 26 of Law No. 82-11 on Private Economic Investment.

³⁷ Decree No. 83-99 of 15 Rabi' al-Thani 1403 AH, corresponding to 29 January 1983, concerning the establishment, organization, and functioning of the National Approval Commission and the Wilaya Approval Commissions, Official Gazette, No. 5, issued on 1 February 1983.

³⁸ Abdelkrim Baddache, *Foreign Direct Investment and Its Impact on the Algerian Economy during the Period 1996–2005*, PhD Dissertation in Economic Sciences, specialization in Money and Finance, Faculty of Economic Sciences and Management, University of Algiers, 2007/2008, pp. 160–161.

³⁹ Article 5 of Law No. 86-13 of 19 August 1986 on the Establishment and Operation of Mixed-Economy Companies, Official Gazette, No. 35, issued on 2 August 1986.

United States of America and then to Italy at the beginning of the twentieth century. In Algeria, the first initiative concerning industrial land was undertaken in Constantine in 1959.

The colonial era had a significant impact on shaping the paths of development and promoting investment in Arab countries.

There is considerable interaction and compatibility among investment, finance, and land legislation.

The legislative development of investment is closely linked to the legislative development of industrial land and is measured by the availability of a suitable land base. This confirms the positive or negative relationship between investment and the land policy adopted by any given State.

Investment management and approval differ from one region to another, and even within the same State. Accordingly, the available land base, its type and nature, the area in which it is located, the development priorities of that area, as well as suitable and properly prepared sites for hosting the proposed projects, are the factors that make it possible to select the most effective and feasible investment option.

Successful investment requires the establishment of mechanisms to encourage foreign investment, as it constitutes a source of economic development, contributes to increasing national income, and provides effective momentum alongside domestic investment. Such mechanisms include economic partnerships, tax incentives, the transfer of capital and investment returns abroad, guarantees of ownership and protection against expropriation, seizure, or nationalization of property, and technology transfer. The Algerian legislator has sought to establish these mechanisms, provide the necessary guarantees, and remove obstacles to investment through successive investment laws.

Recommendations

Improving the investment climate, particularly with regard to the regularization and clarification of the legal status of land, with the aim of attracting domestic investment and expanding the scope of foreign investment.

Improving the economic, social, and political conditions governing investment in real estate and land.

Encouraging State participation during the initial stages of shaping the investment process, particularly at the start-up stage, and identifying key investment areas by establishing major priority sectors in order to determine economic development priorities, ensure their sustainability, and provide support for projects facing difficulties.

Working to simplify and reduce the administrative procedures for granting industrial concessions by eliminating bureaucratic obstacles.

Ensuring legal stability, particularly with regard to investment legislation, as legal stability constitutes the primary incentive for entering the investment sector, whether for domestic or foreign investors.

Adopting specialization in the regulation and supervision of land ownership intended for investment in order to ensure its effectiveness, whether for industrial, agricultural, urban, tourism, or other purposes. This is what we sought to highlight through our study of investment in public property, particularly industrial land.

Intensifying efforts among the administrative authorities concerned with industrial land and strengthening coordination between them in order to ensure the optimal implementation of concession contracts relating to industrial land.

Entrusting the approval or authorization of any investment project to a specialized joint committee comprising representatives of all relevant sectors.

In view of the heavy reliance on land as an investment mechanism, the intense competition for land, and the shortage of adequately prepared land capable of accommodating all investment projects, greater attention should be directed toward investment in the services sector, which does not require a large amount of land, particularly within the framework of the knowledge economy and the transfer of modern technologies.

The investment process must be digitized, whether with regard to real estate assets, investors, or the authorities responsible for managing the process and monitoring investment projects.

Based on the foregoing, Algeria subsequently embarked on adopting an investment policy that differed from its predecessor, particularly after 1990. The legislator gradually began to abandon the socialist system and adopt the capitalist system, introducing various mechanisms, different from those previously in place, to regulate and promote investment.

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