Substantive Rules and Procedural Mechanisms in the Field of Industrial Real Estate

الضوابط الموضوعية والآليات الإجرائية في مجال العقار الصناعي



Bouanad Hadhoum Asmaa[1]

PhD in Law

[1] Djillali Liabes University – Faculty of Law and Political Science – Sidi Bel Abbès, Algeria, hadhoum.bouanad@univ-sba.dz

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Abstract:

Industrial real estate is one of the State's key assets. It consists of land belonging to the State's private domain. It takes several forms, most notably industrial zones and activity zones, special zones, and residual and existing real estate assets.

Specialized bodies are responsible for making industrial real estate intended for investment available and presenting it to investors. These bodies include the Algerian Investment Promotion Agency and the Investor's Digital Platform. Such property is granted through a concession contract in order to preserve it and maintain administrative oversight.

Keywords: Industrial Real Estate; Investment; Concession Contract; Algerian Investment Promotion Agency; Investor's Digital Platform.

ملخص:

يعد العقار الصناعي من أهم ركائز الدولة، فلا يتم إلا على قطعة أرضية تابعة للأملاك الوطنية الخاصة وللعقار الصناعي عدة أنواع أهمها المناطق الصناعية ومناطق النشاط، المناطق الخاصة والأصول العقارية المتبقية و القائمة.

تتولى مهمة توفير العقار الصناعي الموجه للإستثمار وعرضها على المستثمرين هيئات متخصصة المتمثلة في الوكالة الجزائرية لترقية الإستثمار والمنصة الرقمية للمستثمر ويتم منح هذا العقار عن طريق عقد الإمتياز من أجل المحافظة وبسط الرقابة الإدارية عليه.

كلمات مفتاحية: العقار الصناعي؛ الاستثمار؛ عقد الامتياز؛ الوكالة الجزائرية لترقية الاستثمار؛ المنصة الرقمية للمستثمر.

1- Bouanad Hadhoum Asmaa, e-mail: hadhoum.bouanad@univ-sba.dz

INTRODUCTION:

Industrial real estate designated for investment constitutes a fundamental pillar within both the public and private domain assets of the State, serving as a primary cornerstone for initiating and materializing investment ventures on the ground. Furthermore, this category of real estate operates as a pivotal instrument for driving economic expansion and sustainable development, while simultaneously functioning as a foundational baseline for reinforcing national strategic competitiveness[1].

Given the paramount importance attributed to industrial property, successive legislative and regulatory frameworks have established various governing regimes for its allocation, management, and exploitation since the restoration of national sovereignty. The legislature has structured this domain through distinct legal approaches that reflected the prevailing economic paradigms and ideological orientations of the State across different historical phases. The initial explicit regulatory milestone

was marked by the enactment of Decree No. 73-45 of February 28, 1973, concerning the creation of industrial zones, which was subsequently followed by a series of executive decrees detailing the modalities for servicing, managing, and operating these designated zones[2].

The mechanisms governing the granting of rights to occupy and utilize industrial land have evolved through several legal stages, commencing with concessions convertible into final transfers, and eventually transitioning toward non-transferable concession schemes granted primarily through direct mutual agreement (gré à gré). The Algerian legislature has consistently prioritized the concession regime as the optimal mechanism for exploiting economic land reserved for investment, a direction clearly reaffirmed in the Supplementary Finance Act of 2015[3].

Accordingly, the central research problem of this study is articulated through the following core inquiry: **What is the consolidated legal and regulatory framework governing the exploitation of industrial real estate in Algeria?**

To address this problem systematically, the study is divided into two main axes: the first axis addresses the conceptual boundaries of industrial real estate, while the second axis examines the competent authorities empowered to grant industrial property along with the mechanisms established for its exploitation.

1. The Concept of Industrial Real Estate:

Industrial real estate refers to all land parcels belonging to the private domain of the State that are not dedicated to the operation

of a public service, situated within a legally designated perimeter or zone, and which cannot be rendered subject to private ownership or permanent transfer.[4]

Consequently, Section 1 reviews the statutory definition of industrial real estate, whereas Section 2 explores its primary categories and legal classifications.

1.1 Conceptual Definition of Industrial Real Estate

The statutory definition under legislative frameworks is analyzed in Subsection 1, while the doctrinal and academic definitions are examined in Subsection 2.

1.1.1 Statutory Definition of Real Estate

The Algerian legislature provided a general definition of real estate under Article 683 (Paragraph 1) of Ordinance No. 75-58 containing the Civil Code, as amended and supplemented, stating[5]: "Anything fixed in its space, immovable, and which cannot be relocated without incurring damage or alteration qualifies as real estate; whereas anything else is classified as movable property". Under this statutory rule, any asset that is permanently affixed and incapable of being moved without suffering structural deterioration constitutes real estate, while non-fixed, transportable items fall under the category of movable assets.

In addition, real estate is defined as any immovable entity that cannot be shifted from its location without sustaining harm, whether it possesses this character by nature or as a result of human intervention and construction[6].

1.1.2 Doctrinal Definition of Industrial Real Estate:

From a doctrinal and scholarly perspective, the term "industrial real estate" denotes land areas and spatial parcels specifically earmarked by regulatory provisions for the execution of industrial and service-related activities. These properties fall within the private domain of the State and are allocated to serve investment projects through the mechanism of legal concession. Therefore, several legal criteria must be met to classify a property as industrial real estate: it must be owned by the State as private property, it must not be assigned to a public utility, it must be formally classified by regulations as an activity zone or industrial zone, and it must remain non-transferable and ineligible for private appropriation[7].

Consequently, industrial real estate can be defined as the aggregate of land properties set aside for industrial and service operations, placed by the State at the disposal of investors through the legal device of concession.

1.2 Types of Industrial Real Estate:

Industrial real estate manifests in various legal and organizational forms, structured as follows:

1.2.1 Industrial Zones and Activity Zones:

First: Industrial Zones: The United Nations Industrial Development Organization (UNIDO) defined industrial zones as "serviced plots set aside specifically for establishing industrial ventures, typically created pursuant to a decision by the Communal People's Assembly and integrated into the master

development and urban plan. Their success hinges significantly upon strategic location relative to transport networks and distribution hubs, alongside the intrinsic land value within the zone itself". Decree No. 73-45 established a consultative committee for industrial zone development, resulting in the creation of 77 industrial zones distributed across various municipalities and provinces, thereby laying the initial organizational foundation for industrial real estate in independent Algeria[8].

Second: Activity Zones: These zones were established under Ordinance No. 74-26 concerning the creation of real estate reserves for small and medium-sized enterprises. Responsibility for servicing, organizing, and managing these zones was entrusted to local authorities (collectivités locales) that initiated them, with the aim of accommodating investment inflows, revitalizing market activity, or alleviating congestion within overburdened industrial zones. Subsequently, the role of local government entities was reactivated under Executive Decree No. 90-405, empowering municipal and provincial assemblies, individually or jointly, to establish local public enterprises dedicated to managing and developing real estate assets under their jurisdiction[9].

1.2.2 Special Zones and Residual and Surplus Real Estate Assets:

First: Special Zones: Under the repealed Investment Law No. 93-12, special zones were categorized into economic expansion zones and areas requiring priority promotion. The

conditions for classifying these zones and delineating their geographic boundaries were formally established. Decree No. 94-321 provided economic incentives and support for expansion zones, while priority promotion areas covered municipalities experiencing significant deficits in social and economic development projects[10]. Investment Law No. 22-18 also introduced the concept of a "zones regime." It identified the investments eligible for this regime and specified the relevant locations[11].

Second: Residual and Surplus Real Estate Assets: Residual assets comprise usable land parcels belonging to dissolved local public enterprises. Legislation mandates that liquidators of dissolved public entities compile a comprehensive inventory of available residual real estate starting from the publication date of Executive Decree No. 23-486 in the Official Gazette. The liquidator transmits this inventory to the competent provincial Director of State Property, whereupon both parties draw up a formal administrative handover report[12].

Surplus real estate assets, on the other hand, represent real property exceeding the actual operational requirements of state-owned economic enterprises.

Article 5 of Executive Decree No. 23-486 details the specific criteria governing these assets. A specialized committee is established at the level of each province (Wilaya) to identify surplus assets, convening at the call of its chairperson until its tasks are fully executed. This committee prepares an exhaustive

inventory of all real estate held or used by public economic enterprises and submits it to the Minister of Industry, who in turn submits it to the State Participations Council (Conseil des Participations de l'État) for final decision-making. These residual and surplus properties may also be reallocated to public administrations and government entities when necessary[13].

2. Authorities Competent to Grant Industrial Real Estate and Mechanisms for Exploitation

Promoting investment activity requires a clear definition of the institutions authorized to attribute industrial real estate (Section 1), alongside robust legal frameworks governing the mechanisms for its exploitation (Section 2).

2.1 Entities Responsible for Attributing Industrial Real Estate

The Algerian legislature assigned the responsibility of attributing and allocating economic land to specialized public bodies, represented primarily by the Algerian Investment Promotion Agency (AAPI) (Subsection 1) and the Investor's Digital Platform (Subsection 2).

2.1.1 The Algerian Investment Promotion Agency (AAPI)

Pursuant to Law No. 23-17 establishing the rules and modalities for granting economic land belonging to the State's private domain for investment projects, exclusive authority for granting such land was conferred upon the Algerian Investment Promotion Agency. The regulatory procedures and conditions governing this granting process are governed by Executive Decree No. 23-487. This institutional reform aims to eliminate previous

bureaucratic hurdles and mitigate the inefficiencies resulting from the fragmentation of real estate management across multiple agencies. As a result, the Agency serves as the central operational authority responsible for implementing exploitation mechanisms for investment properties[14].

In coordination with relevant ministerial sectors, the Agency identifies the economic purpose of available land parcels and assigns them to development entities. It manages and promotes the state-owned real estate portfolio eligible for concession, while maintaining an updated digital inventory detailing the physical and technical specifications of available plots.[15]. In collaboration with local governors (Walis), the Agency identifies priority projects eligible for economic land allocation. It submits quarterly activity reports every three (03) months, alongside a comprehensive annual report submitted to the Prime Minister. Under the statutory delegation established by Law No. 23-17, the Agency holds exclusive authority to allocate land for investment and is legally obligated to recover any property where the intended purpose or usage has been unlawfully altered[16].

2.1.2 The Investor's Digital Platform:

Economic land is attributed exclusively through the Investor's Digital Platform, in accordance with Article 23 of Investment Law No. 22-18. This mechanism falls within the broader national strategy to modernize public administration and digitize administrative procedures. Managed directly by the Algerian Investment Promotion Agency, the platform features an

integrated database on available economic land, designed to streamline administrative steps for investors. All procedures are completed entirely online without requiring physical visits to administrative offices. The Agency provides detailed guidelines on its website outlining the steps for submitting applications via the platform[17].

Applications for acquiring economic land are submitted and processed electronically by the Agency[18].

The applicant must first complete a pre-registration by entering information on the investment project through the digital platform. This includes the proposed activity, the location and area of the selected property, the financing plan, and the project description form. The application for economic land is then processed digitally through the project evaluation grid. The investment project receiving the highest score under that grid is selected and a provisional decision is issued in its favor. Once the appeal period has expired, a final decision is issued[19].

In the event of an unfavorable response regarding the complaint, the applicant retains the right to lodge an appeal before the High National Commission for Investment-Related Appeals within the prescribed period following official notification of the decision on the complaint[20].

The investor's digital platform is specifically designed to enhance communication channels between economic project promoters and the public economic administration, guarantee absolute transparency during the evaluation and processing of

investment files, accelerate administrative file processing, elevate the quality of services rendered, empower investors to track the progression of their applications remotely, and enable direct, real-time exchanges between executive officials of the relevant administrative departments and entities[21].

2.2 Methods of Exploiting Industrial Real Estate:

Industrial real estate is exploited primarily through a concession convertible into a final transfer (Section 1). Additionally, attribution via direct mutual agreement (gré à gré) has been formally instituted as an alternative method for granting rights to occupy and utilize industrial real estate reserved for investment activities (Section 2).

2.2.1 Concession Convertible into Transfer:

Investment fundamentally consists of acquiring tangible and intangible assets that directly contribute to designated operations for producing goods and delivering services. This objective may be realized through the establishment of brand-new economic activities, the expansion of existing production capabilities, the technical rehabilitation of operational machinery, financial or in-kind capital contributions to an enterprise, or the relocation of productive activities from abroad[22].

Under a concession agreement, a public legal entity delegates the responsibility of operating and managing a public service activity to a private entity or contractor. In return, the private contractor commits to paying a contractually agreed financial consideration. The State has progressively liberalized

productive and service sector activities to encourage private investment. This structural orientation contributes significantly to fostering economic growth while reconciling the private commercial interest of the concessionaire with the broader public interest pursued by the granting authority[23].

Certain categories of real property are strictly excluded from being subject to concession contracts within the domain of industrial real estate. These excluded categories encompass agricultural land, protective perimeter zones surrounding major electrical and gas infrastructure, land parcels situated within designated mining perimeters, properties located within recognized archaeological and cultural heritage sites, and plots designated for real estate development that benefit from state financial assistance[24].

The formal decision granting the concession is issued directly by the One-Stop Shop to the beneficiary investor, who is legally obligated to execute the investment project in strict compliance with its stipulations, terms, and conditions. Granting a concession convertible into a transfer via direct mutual agreement requires the investor to pay an annual rental fee effective from the date the project enters operational status. The competent territorial services of State Property draw up the formal concession deed within a maximum period of eight (08) days from receiving the complete administrative file from the Agency's One-Stop Shop. This administrative file must comprise a valid identity document, the final attribution decision, the signed specifications document

(cahier des charges), the corporate statutes of the legal entity, and an updated commercial register[25].

A concession convertible into a transfer is granted for a renewable duration of thirty-three (33) years. The prescribed timeline for completing the investment project for which the concession was awarded must strictly conform to the deadlines mandated by governing investment legislation. Furthermore, holding a concession confers upon the beneficiary the legal right to obtain a building permit and the entitlement to create a formal mortgage over the real property right created by the concession[26].

The investor is strictly prohibited from modifying the designated economic use of the granted property without prior formal authorization from the Algerian Investment Promotion Agency. Consequently, the investor remains bound to complete the project within the contractually mandated deadlines, settle all annual rental fees and administrative management charges as they fall due, and preserve the fundamental economic purpose of the granted land following project completion[27].

2.2.2 Granting a Concession by Mutual Agreement:

Concessions may also be granted through public auction or via direct mutual agreement over available land parcels belonging to the State's private domain for the benefit of public institutions, administrative bodies, or natural and legal persons[28]. Public auctions may be organized as open procedures through competitive bidding among all interested natural or legal persons seeking a concession, or as restricted procedures involving

competition over land reserved for a predetermined investment project based on specific social, economic, and technological imperatives. Only investors meeting pre-established criteria are eligible to participate in restricted auction procedures.

A concession granted through direct mutual agreement is authorized by a formal decision of the Council of Ministers, acting upon a proposal from the National Investment Council, and is strictly reserved for projects of strategic priority and national importance. Alternatively, it may be granted pursuant to a decision issued by the provincial Governor (Wali), acting upon a proposal from the committee responsible for assisting site selection, investment promotion, and land regulation, with respect to state-owned private land, residual real estate assets of state-owned economic enterprises, and land located within activity zones and industrial zones[29].

The concession contract is terminated either by mutual agreement between the contracting parties or at the unilateral initiative of the Agency through its One-Stop Shop if the beneficiary fails to fulfill the concession conditions or commits a material breach. Unilateral termination may proceed after the beneficiary receives two (02) formal administrative notices issued by the Agency via the One-Stop Shop. On this regulatory basis, the State Property service executes the formal deed terminating the concession in accordance with the official revocation decision rendered by the Agency[30].

Conclusion:

The preceding analysis demonstrates that industrial real estate constitutes an indispensable instrument for accelerating national economic development. Facilitating investment within this realm represents one of the primary drivers for attracting local and foreign capital. Accordingly, the Algerian legislature has devoted substantial regulatory attention to industrial property by establishing comprehensive legislative texts that define the complete procedural pathway for exploiting economic land reserved for investment initiatives.

Furthermore, the legislature has entrusted authority over the allocation of industrial real estate to specialized bodies, most notably the Algerian Investment Promotion Agency and the Investor's Digital Platform. This institutional structure is designed to curtail previous administrative inefficiencies and eliminate the adverse consequences of institutional proliferation in managing industrial property. Industrial land is exploited through a legal concession contract that accords usage rights without transferring bare ownership, thereby safeguarding State public assets.

Based on these findings, the following strategic recommendations are proposed:

- Enact a unified, dedicated legal code specifically governing industrial real estate.
- Incentive investors to engage in industrial project development through enhanced benefits, such as establishing nominal annual rental rates.

- Incorporate explicit provisions for immediate contract termination alongside strict penal sanctions in cases of non-compliance or breach of obligations.

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