

RESEARCH ARTICLE		Industrial Real Estate for Investment in Algerian Legislation	
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Doi Serial		https://doi.org/10.56334/sei/8.6.17	
Keywords		Real estate portfolio in Algeria, Industrial real estate, Investment in Algeria, Algerian Investment Promotion Agency	
Abstract			
This study addresses one of the most crucial factors for the success of any investment project: industrial real estate. Considered a public asset, industrial real estate is a fundamental element for materializing investment projects and ensuring their success and sustainability. Providing an adequate, simple, and flexible land base contributes to creating a favorable climate for both national and international investment. This research paper aims to examine the conceptual, material, and organizational aspects of industrial real estate in Algeria and to review the legislative efforts undertaken to attract and promote investment.			
Citation			
Zerrouk N. (2025). Industrial Real Estate for Investment in Algerian Legislation. <i>Science, Education and Innovations in the Context of Modern Problems</i> , 8(6), 161-167; doi:10.56352/sei/8.6.17. https://imcra-az.org/archive/364-science-education-and-innovations-in-the-context-of-modern-problems-issue-6-volvi-2025.html			
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Received: 02.01.2025		Accepted: 22.03.2025	
		Published: 04.05.2025 (available online)	

Introduction

Investment is a key element in advancing the economic sector of any country. It is a cornerstone for creating, utilizing, and avoiding the hoarding of wealth, which in turn reduces its value. Investment is a direct driver of comprehensive development due to its role in job creation, skill acquisition, and technology transfer. Therefore, countries prioritize investment and aim to provide necessary incentives to attract and promote it. Since no investment project can materialize without a suitable land base that meets all necessary requirements, providing real estate designated for investment is crucial to the overall success of investment endeavors. The real estate must be suitable and appropriate to ensure a project's success and sustainability. Algeria, on one hand, seeks to assert its position as an active player in the global economic landscape, and on the other hand, possesses a vast geographical area that makes it a potentially excellent investment destination. However, in practice, making a qualitative leap in investment comparable to international standards has proven difficult. One of the primary obstacles to achieving this leap is the issue of industrial real estate, which has long hindered investment operations in Algeria. In recent years, Algeria has become increasingly aware of its shortcomings in the investment domain and is now striving to eliminate all obstacles, particularly the major issue of securing suitable land for stable and successful investments.

Problem Statement:

Has the Algerian legislator succeeded in addressing the issue of industrial real estate for investment in a way that genuinely promotes the investment sector amid internal and external challenges?

Sub-questions:

- What is the conceptual framework of industrial real estate?
- What is the material framework of industrial real estate in Algeria?

- What is the institutional framework for managing industrial real estate in Algeria?

To answer the research problem and its sub-questions, the study adopts both descriptive and inductive methodologies, structured around three axes:

1. Concept of industrial real estate
2. Industrial real estate portfolio in Algeria
3. Regulatory bodies for the management of industrial real estate (e.g., Algerian Investment Promotion Agency)

I. Concept of Industrial Real Estate

To define the concept of industrial real estate, we will address its definition and its significance in investment operations.

1. Definition of Industrial Real Estate:

1.1 Doctrinal Definition:

Industrial real estate is defined as “part of the public land reserve intended to meet the needs of investors, whether national or foreign.” It also refers to “land designated to host industrial institutions with necessary facilities, including both developed and undeveloped lands intended for various classified industries.” This encompasses both urban areas for light industry and outlying areas for heavy industry.

It includes all areas and associated immovable assets (residual and surplus assets) held by public economic institutions, especially those resulting from the dissolution of such institutions or those still operational.

1.2 Legislative Definition:

The Algerian Civil Code does not offer a specific definition of industrial real estate. The law merely specifies types of land that qualify as industrial investment real estate. A 2006 report from the Ministry of Investment Promotion defined it as “land within specially equipped areas or even outside them, including residual assets of dissolved or surplus public enterprises designated for productive or service activities.”

2. Importance of Industrial Real Estate in Investment:

Industrial real estate plays a key role in attracting investment. Its availability:

- Reduces the high cost of acquiring real estate, particularly industrial land, which is considered a valuable and stable investment asset.
- Encourages investment across various economic sectors by offering reassurance and sufficient guarantees to investors.
- Helps regulate the real estate market, ensuring equitable access and promoting real investments by facilitating administrative and financial procedures.

II. Industrial Real Estate Portfolio in Algeria:

The multitude of legal texts and regulations, especially from the 2011 Supplementary Finance Law and subsequent ones (notably 2013 and 2015), have complicated a clear definition. However, the national map of industrial zones provides some clarity. The industrial real estate portfolio in Algeria can be divided into:

1. Industrial lands under private state ownership
2. Industrial lands within industrial zones and activity zones

1. Industrial Properties under State Private Ownership:

These include:

- **Special Zones (1.1):** Established by Legislative Decree No. 93/12 on Investment Promotion. These are further divided into:
 - **Zones to be promoted:** Underdeveloped areas (e.g., southern and isolated regions).
 - **Economic expansion zones:** Areas rich in natural resources and infrastructure, possibly encompassing entire provinces or municipalities, defined by ministerial decree.

According to Article 4 of Decree 94-321, these zones are “geo-economic spaces with shared socio-economic characteristics and rich in natural or human resources, suitable for establishing and developing economic activities.”

2. Free Zones (2.1):

The Algerian legislator defined free zones as: “Delimited areas in which industrial and/or commercial activities and services are carried out according to the conditions mentioned in Articles 25 to 34 of Legislative Decree 93/12 (...) and in accordance with the provisions of this decree.”

The free zone system was adopted for the first time in Algeria under Article 93 of the Finance Law of 1993, which amended Article 01/01 of the Customs Code No. 79/07, and which stated as follows: “(...) Free zones may be established within the customs territory and shall not be subject, totally or partially, to the legislation and regulations in force under the conditions that will be defined by a specific law.” Thus, the possibility of creating zones in Algeria was adopted in the Customs Code in its first article, which stipulated the possibility of creating free zones not subject to the legislation and regulations in force, in whole or in part. As for the issue of regulating these zones, it was first addressed by the Investment Law of 1993. This decree was repealed by Ordinance No. 01/03 on investment, which did not address free zones but left their regulation to a specific text, which was embodied in Ordinance 03/02, which was in turn repealed in 2006.

The reasons for Algeria’s cancellation of the free zone system during this period are twofold: the first is indirect, which is that Algeria viewed free zones as industrial zones, and the clearest proof of this is the legislator’s cancellation of the “Bellara” free zone and its transformation into an industrial zone. The second is a direct reason, which is Algeria’s signing of the Free Trade Agreement, where the World Trade Organization (WTO) requested that Algeria cancel Article 17 of Law No. 03-02, which stipulates those exemptions from customs duties are only granted up to 50% of the turnover, while the remaining percentage remains subject to those duties.

As a direct consequence of the cancellation of the free zone system in Algeria, the Algerian economy suffered losses represented in missing significant investment opportunities, and thus the loss of opportunities to attract foreign capital and hard currency, as well as missing opportunities to create job positions. This situation led Algeria to rectify its mistake in canceling the free zones by reinstating the free zone system, and even promoting it to the global level, as it issued in 2022 a new legislative text re-adopting the free zone system, which is Law 22/15, followed by Executive Decree 24/168.

The most prominent feature of the two new regulatory texts governing free zones mentioned above is that they regulated the matter in a non-extensive manner and without regulating all the details that were present in the old text, which opens the door to interpretation and thus the possibility of expanding the public authority’s scope of intervention in regulating and managing the free zone. They also refer to the relevant sectoral laws whenever the activity in the free zone relates to the scope of regulation of that law; such as labor and social security law, the law on the residence and employment of foreigners, environmental law, tax law, customs law, monetary and credit law, international trade law, and the settlement of disputes related thereto, whether stipulated in the Code of Civil and Administrative Procedure or in international agreements. This situation makes the possibility of state intervention in the free zone an intervention that cannot be restricted, which contradicts the principles on which free zones are based. Accordingly, it is very important that the Algerian legislator dedicate a specific, accurate, and detailed system to free zones; one that alone regulates all matters including the limits and mechanisms of state oversight over trade exchanges conducted within the free zone in a way that guarantees all forms of illicit trade, without undermining the idea of freedom on which free zones are based. Several international experiences have proven the effectiveness of having a comprehensive and accurate specific text regulating free zones in the success of this type of system.

3. Industrial real estate in industrial zones and activity zones.

This section is addressed by discussing industrial zones (1.1), and activity zones (2.1)

3.1. Industrial zones:

An industrial zone can be defined as: “A tract of land that includes a group of factories equipped with necessary services and facilities, and this area is divided into small plots, each of which is designated for the establishment of a specific factory.” And also as:

The Algerian legislator did not assign a specific definition to industrial zones, and with the issuance of Legislative Decree No. 73/45 dated February 28, 1973, concerning the establishment of a consultative committee for the planning of industrial zones, a number of industrial zones were created, totaling seventy-seven zones distributed across the territories of municipalities and provinces. This decree regulated the method of receiving and acquiring the properties forming the industrial zones, whether they were among state-owned properties or private-owned properties. The criticism of this decree is that it did not achieve the desired results, as several shortcomings were recorded, mainly represented in the instability of the management bodies of industrial zones; these bodies varied and succeeded one another, which caused practical problems, especially those related to monitoring and follow-up operations, and in the random selection of sites for establishing industrial zones; where the selection process was not done in a studied manner, causing the consumption of many agricultural lands. As a result of these shortcomings, the high authorities of the state restructured the legal framework and removed investment obstacles,

as Ordinance 01/03 dated 20/08/2001 concerning the promotion of investment was issued, which created a new body: the **National Investment Council** (*Conseil National de l'Investissement*), whose most prominent mission is to propose to the government the various necessary procedures and measures supporting and promoting, especially working on establishing new industrial zones.

3.2. investment. Activity zones:

Activity zones can be defined as those areas specified by development and urban planning tools, which are allocated to host multi-service activities of a local nature or multiple services. These are areas jointly owned by local provincial communities for the management and regulation of real estate and the occupying owners.

These zones do not have a clear legislative or regulatory framework but were created at the initiative of municipalities based on urban planning schemes regulated under Law 90/29 related to development and urban planning, as amended and supplemented. The task of their management was assigned to public institutions of an industrial and commercial nature called local agencies for real estate management and regulation, currently numbering 10, known as urban real estate management and regulation agencies.

Special Zones:

The emergence of special zones came within the framework of Law 93/12 on the promotion of investment, and the Algerian legislator regulated them in the form of two main types of zones: zones to be promoted, and economic expansion zones. The zones to be promoted are those that require development through special state contribution due to their underdevelopment, requiring state support to restructure and activate their production and service bases. They consist of municipalities whose list is determined according to criteria specified by Executive Decree 91/321.

As for economic expansion zones: they are geo-economic spaces and lands that have common integrated economic and social homogeneity characteristics and are rich in natural and human resources or infrastructure, which must be consolidated and their capacities enhanced to facilitate the establishment and development of economic activities for the production of goods and services. The legislator has specified the methods of determining economic expansion zones based on the results of analyses that take into account the criteria of Decree 94/321 related to the conditions for designating special zones and defining their boundaries.

Third: Regulatory bodies for the exploitation of industrial real estate (Algerian Investment Promotion Agency)

The establishment of effective bodies to regulate the exploitation of economic real estate is extremely important; these bodies work to provide land portfolios for public and private economic operators, both national and foreign, which is considered one of the most important investment incentives.

Given the central role that the availability of industrial real estate plays in stimulating and stabilizing the investment process, the Algerian legislator paid attention by enacting new legal texts that meet the requirements of both national and foreign investors in terms of the availability of suitable real estate.

Law 23/17 is the latest legislative text regulating this matter. It came with rules compatible with the direction of Algerian state policy in the field of investment promotion. It completely reconsidered the administration in charge of managing the industrial real estate portfolio by assigning the exclusive management and administration of industrial real estate to the Algerian Investment Promotion Agency. This exclusivity in administration and management came as a necessary measure to correct previous mistakes in managing the industrial real estate portfolio, which was characterized by an inflated number of institutional bodies regulating investment and economic real estate, thereby limiting their effectiveness. This led to many practical problems, the most important of which were the spread of administrative bureaucracy in managing this file, and the inability to monitor investor commitments and prevent them from diverting industrial real estate from its designated purpose.

To highlight the role of the Algerian Investment Promotion Agency in managing and organizing the exploitation of industrial real estate, we address three parts; the first shows the exclusivity of the agency in managing the industrial real estate portfolio (1), the second defines its role in increasing real estate supply (2), and the third highlights its role in monitoring and managing real estate (3).

1. The exclusive role of the Algerian Investment Promotion Agency in managing the industrial real estate portfolio:

In addition to the bureaucracy that characterized the management of industrial real estate – as mentioned above – the shortcomings of the legal system of economic real estate resulted in several problems, the most prominent of which is the existence of a large number of unused land plots. This situation is due either to the failure of industrial real estate concession holders to fulfill their contractual obligations to implement their investment projects – hence poor distribution and granting of industrial real estate – or to the absence of suitable industrial real estate offers that meet **Distribution of Real Estate Abundance and Enabling Access to Adequate Assistance from Relevant and Specialized Entities When Necessary**

One of the most important powers granted to the Algerian Investment Promotion Agency (AAPI) within the framework of managing the industrial land portfolio includes:

1. Granting transferable usufruct rights, which can be converted into a waiver and granting the usufruct thereon.
2. Maintaining a special register for industrial land, thereby initiating the establishment of a dedicated information bank for the industrial land portfolio. This contributes to facilitating the process of forming the real estate offer directed towards investment.

2. The Role of the Algerian Investment Promotion Agency in Increasing the Real Estate Offer:

The Algerian state, within the framework of its public policy aimed at stimulating and promoting investment, has paid significant attention to meeting investors' needs for suitable industrial real estate and addressing the issue of its scarcity. This is achieved through expanding the industrial land portfolio by:

- Conducting a comprehensive purification of economic land in general and industrial land in particular.
- Amending the legislative system related to it by removing the administration from both the processes of handling and granting industrial land and the process of monitoring investment projects.

In addition to these reforms, the AAPI has been granted the authority to acquire, on behalf of the state, private property that is suitable for hosting an investment project at a commercial price determined by the State Property Services, through an administrative contract, integrating it into the state's private property, provided that the necessary budget is available.

Furthermore, the AAPI plays a joint role with the relevant bodies in preparing urban planning tools to express related needs in the field of real estate investment. The Algerian legislator has involved it as an active member in the committee responsible for planning tools to enable it to express public authority needs for economic land, thereby ensuring an increase in its portfolio.

The agency is also granted the option to exercise the right of preemption on real estate properties relinquished by the beneficiary of economic land, as well as on any natural or legal person subject to private law capable of hosting an investment project.

3. The Role of the Algerian Investment Promotion Agency in Facilitating Investors' Access to Industrial Land:

Algeria has taken serious steps to facilitate the process of obtaining suitable and appropriate industrial land by implementing procedures for submitting investment files through the digital platform for investors. This can be considered a consolidation of the principles of equality and transparency among all investors, addressing the issue of the lack of sufficient information related to the industrial land offer. Through digitizing this process, Algeria has been able to provide all information related to real estate availability digitally to all investors.

This digital platform plays a significant role in:

- Enhancing transparency in the agency's offers of industrial land directed towards investment.
- Reducing manipulations and attempts by some intervening parties to exploit their authority and hinder the proper functioning and management of the investment process.
- Providing investors with the opportunity to view various available options to choose the area most suitable for their investment project.

The effective role of the AAPI in facilitating investors' access to industrial land is further confirmed by its extensive and exclusive powers in managing and operating the industrial land portfolio. In addition to all the competencies granted to it, which we have discussed above, it is also authorized to:

- Grant industrial land to investors; the agency is the primary authority in granting industrial land to actual investors. Its exclusivity in this task ensures efficiency in this matter in terms of having a single body overseeing requests for granting industrial land, studying them, and responding to them, thus being adequately informed, free, and independent in granting industrial land to those who deserve it.
- Accompanying and monitoring investors; this competence does not stop at accompaniment and monitoring but includes continuous supervision to ensure the proper direction of industrial land towards the intended purpose, thereby ensuring monitoring of the land's destination and combating any possible manipulations in the field of industrial land investment.

Conclusion:

In conclusion, this study clarifies the positive direction of the Algerian legislator in overcoming what has been termed the "industrial land issue" in Algeria, which has long been associated with both national and foreign

investment files as a black spot in this file. The Algerian efforts to promote the investment sector in particular and provide a suitable environment for hosting investment projects necessitate the provision of appropriate and suitable real estate containers for them. This is something that the Algerian state has clearly realized and is working to implement through deep legislative and structural reforms in the field of providing real estate containers and facilitating ways to obtain and utilize them.

This study has led to a number of findings, which we will mention in the following partial points:

- Algeria has prepared a technical map that includes various available real estate containers, including industrial land. It has also relied on digitizing the processes of requesting, granting, and managing industrial land, which contributes to providing the necessary transparency in managing the sector, thereby creating reassurance among economic operators and instilling confidence in themselves in achieving objectivity and equality among them.
- Algeria has moved towards granting extensive powers to a single specialized body in managing the industrial land file to avoid previous mistakes in managing this file, by preventing any overlap in powers between it and other related bodies.
- Algeria has introduced new means to increase the supply of industrial land to meet the requirements of economic operators and the investment market, which has significantly revived after the improvement of the investment climate in Algeria and its classification as an excellent destination for investments.

The most important recommendation we can offer on the subject of this study is the necessity of providing qualified human resources, specialized in both real estate and investment fields, and technically and legally proficient in the techniques of dealing with and managing industrial land. This can be achieved through providing specialized and high-level training for all cadres and employees of the AAPI in particular, and all cadres and employees of bodies related to the industrial land and investment files. This training should be continuous, taking into account the developments occurring internationally in the real estate and investment fields.

In an attempt to answer the problem posed in the introduction of this study, which was formulated as follows: Has the Algerian legislator succeeded in addressing the industrial land file directed towards investment in a way that achieves the actual and effective promotion of the investment sector, in light of the internal and external challenges

We can say that: Algeria's experience regarding the provision of industrial land is one that has been fraught with many difficulties resulting from the economic backgrounds that Algeria has gone through. However, the recent amendments, which we referred to in the body of this study, can be evaluated as having very positive effects that have begun to appear relatively, with the necessity of completing the legislative efforts by providing a competent human framework capable of properly implementing legislative texts.

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