Linguistic and Philosophical Investigations
ISSN: 1841-2394, e-ISSN: 2471-0881
Vol 24 (1), 2025
pp.1092-1103

The Impact of Industrial Property Granting Methods on the Role of Investment in Achieving Local Development "An Applied Study on the Granting of Property in Activity Zones in Batna Province - A Model".

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Received date: 20.04.2025; Accepted date: 20.07.2025; Publication date: 23.09.2025

ABSTRACT: If investment is the foundation for achieving local development, then real estate allocated for investment is the foundation of the investment process, which varies between service, agricultural, and industrial investments. In this field, industrial real estate is considered the foundation of industrial investment. Activity zones are among the most prominent areas embodying the presence of industrial real estate. However, the granting of these properties varies from one legal system to another, and even varies from one law to another within the same legal system.

Algeria, like other countries, has sought to achieve local development. To this end, it has encouraged investments of various types, most notably industrial investment, for which it has established an advanced legal framework that began in 1993 and continues until 2022. This framework includes a set of legal rules regulating the investment process, including rules that outline the procedures for granting industrial real estate. From this perspective, the method of granting industrial property in Algeria has played a significant role in achieving local development. This includes the method of granting industrial property across various activity zones in Batna Province. Achieving development in this area still requires further legal reforms, including those related to the methods of granting property in activity zones.

Keywords: Local Development, Investment, Industrial Real Estate, Activity Zones.

Introduction:

Investment is considered the core of the economic process and the most effective tool for achieving development in contemporary societies.

Because many investment projects are linked to the presence of real estate designated for investment, whether tourism, agricultural, or industrial, investment related to these properties has received attention from contemporary legislation, including Algerian legislation, which seeks to provide numerous incentives to attract investment, encourage investors, and provide an optimal investment climate for the success of investment projects. Algeria has thus developed a legal system specific to investment, a system that has witnessed numerous laws aimed at improving the investment environment.

These laws stipulate a set of incentives that facilitate the investment process and attract the largest number of investors, including the provision of the necessary real estate containers to accommodate investment projects, most notably real estate designated for industrial properties (industrial zones and activity zones).

In this regard, Batna Province is among the provinces that have a number of activity zones that have been distributed to several investors to implement investment projects in accordance with applicable laws.

Based on this, the question we can address in this research paper is**: To what extent can investment in industrial real estate contribute to achieving local development?**

First : Investment in industrial real estate and achieving local development under Legislative Decree 93/12.

Second : Investment in industrial real estate and achieving development under Order 08/04.

Third: Investment in industrial real estate and achieving development under Laws Nos. 11/11 and 16/09.

First : Investing in industrial real estate and achieving local development under Legislative Decree 93/12:

This period is considered one of the first stages in which Algeria adopted an investment promotion policy. This stage is known as the "non-transferable concession" stage.

During this phase, the right to concession for investment in state-owned land appeared for the first time in Legislative Decree No. 93/12 of October 5, 1993. This decree stipulated that: "The state may grant, under preferential terms, up to a symbolic dinar, concessions on national-owned land for investments carried out in special zones." The implementation procedures were referred to the regulatory framework. [1]

Accordingly, Executive Decree No. 94/322 of October 17, 1994, was issued regarding the granting of concessions on national-owned land located in special zones within the framework of investment promotion. This decree stipulated that the concession be granted for a period ranging between 20 and 40 years, calculated based on the importance of the investment, and renewable according to the procedures stipulated in the specifications, subject to the following financial conditions:

• A symbolic dinar for the entire period allowed to the investor to complete the project.

• Payment of a rental fee for the remaining period.

• Concession holders for investments of particular importance to the national economy will benefit from the concession for a symbolic dinar for the entire duration of the concession.

During this phase, according to Article 6 of Executive Decree No. 322/94, the investor had the possibility of renewing the concession upon its expiration. He also had the right to obtain a waiver of the property designated for investment upon completion of the project, which had been legally inspected by the competent authority.[2]

However, during this phase, according to Article 7 of the same Decree No. 322/94, if the investor breaches his obligations, particularly those related to completing his project in accordance with the specified terms and deadlines, the concession he benefited from will be terminated in accordance with the applicable law and the specifications he signed.

♦ In implementation of Legislative Decree No. 93/12 and Executive Decree No. 94/322 mentioned above, the Local Agency for Urban Real Estate Management and Organization in Batna granted 195 plots of land distributed across the various activity areas of the state according to the following table:

Activity Area:	**Number of plots granted under the transferable concession**
Activity Area: Ain Yagout Municipality:	40plots
Activity Area: Ain Jasser Municipality:	12plots
Activity Area: Merouana Municipality:	23plots
Activity Area: Batna Municipality:	111plots
Activity Area: Ngaous Municipality:	1plot
Activity Area: Brika Municipality:	8plots
Total:	**195plots**

Table No. 01 shows the number of plots of land in the various activity areas of Batna Province distributed for investment within the framework of granting a transferable concession.

• Evaluating the Role of Investment in Industrial Real Estate in Achieving Development During the Non-Transferable Concession Grant Phase:

While the number of plots of land in various activity areas in Batna Province distributed during the non-transferable concession grant phase amounted to 195 plots, the number of investment projects actually implemented did not exceed 45. [3]This means, by definition, that a total of 150 plots of land in various activity areas in Batna Province, distributed for the purpose of implementing investment projects during the non-transferable concession grant phase, were not implemented.

If we attempt to analyze the reasons behind this, we can attribute it either to the lack of legal mechanisms for monitoring the implementation of investment projects, or to the failure of the relevant entities, institutions, and agencies to fulfill the role required of them by law. Accordingly, during the phase of granting industrial properties through non-transferable concessions, the goal and purpose sought by the legislator in issuing Legislative Decree No. 93/12 and Executive Decree No. 94/322, namely the implementation of investment projects for the purpose of achieving development in the state, was not achieved. Thus, we can say that a total of 150 plots of land, encompassing vast areas of land, were wasted without achieving any development objectives.

Second : Investment in Industrial Real Estate and Achieving Development Under Order No. 08/04

This phase is also known as the "granting of concessions by public auction" phase. It began with the issuance of Order No. 08/04 dated August 1, 2008, which specified the terms and procedures for granting concessions on state-owned land intended for the implementation of investment projects. This order is the law that established the granting of long-term, non-transferable concessions on all state-owned land intended for investment or commercial real estate development. This decree stipulates that concessions for investment project needs are granted on the basis of a specification book, through an open or restricted public auction on state-owned land available to private enterprises, provided that applicable urban planning rules are adhered to. The concession is granted for a minimum of 33 years, renewable, and a maximum of 99 years, in exchange for payment of the annual rental fee resulting from the public auction. This fee is to be updated after 11 years, in accordance with Article 9 of the same decree.[4]

According to this decree, upon completion of the investment project, the investor is obligated to own the buildings constructed by him on the land for which the concession has been granted, at his own initiative and by a notarized contract. Ownership of the buildings and the real property right resulting from the concession are transferable immediately upon the actual completion of the investment project and the commencement of operations, following actual inspection by qualified bodies.[5]

Executive Decree No. 09/152, dated May 2, 2009, defined the procedures for granting concessions on state-owned land intended for investment projects. The open public auction is defined as an auction conducted through competition for any natural or legal person wishing to benefit from a concession on the designated plot of land for the implementation of an investment project. The limited public auction is defined as an auction conducted through competition on land intended for a pre-determined investment project, with participation by only investors who meet certain eligibility requirements. [6]

Article 12 of the decree stipulates that if the concession is not limited to a term of 33 years and a maximum of 99 years, the building owner must pay a rental fee to the state, which owns the land, paid by the State Property Administration based on the real estate market.

Article 21 of the same decree grants the investor holding the concession who is unable to complete their investment project within the timeframe specified in the concession contract the right to request an additional period of between one and three years, depending on the importance and nature of the project, provided that the nature of the project and the program specified in the specifications are respected.

However, if this final period expires without the investment project being completed, the investor's right to the concession is forfeited.

The investor's right to the concession is also forfeited, according to Article 22 of the same decree, if they complete their investment project within the specified timeframes, but the buildings do not conform to the specified program and/or the retail license.

♦ In implementation of the legislation issued during this phase, the Batna State Agency for Urban Real Estate Management and Organization, as the representative of the municipalities and the manager of their real estate assets - given that the municipality's hands are legally restricted from disposing of properties owned by private individuals except through these agencies established specifically for this purpose - initiated two concessionary operations through public auction of investment lands in 2010, based on the initial (preliminary) price determined while taking into account all elements of land valuation. These two operations resulted in the granting of 42 plots distributed across the various activity areas, as shown in the following table:

Activity Zone:	**Number of plots granted as part of the concession by auction**
Activity Zone: Ain Yagout Municipality:	12plots
Activity Zone: Ain Jasser Municipality:	13plots
Activity Zone: Merouana Municipality:	16plots
Activity Zone: Ngaous Municipality:	1plot
Total:	**42plots**

Table No. 2 shows the number of plots of land in the various activity zones in Batna Province distributed for investment as part of the concession by auction

• Evaluating the role of investment in industrial real estate in achieving development during the concession granting phase through public auction:

It is noticeable during this phase that no investment project was implemented on the lands granted through the concession through auction. This means that the equivalent of 42 plots of land were granted through public auction for the purpose of developing the region and achieving development for its residents.[7] However, the goal envisioned by the legislator was not achieved at all, even relatively. Perhaps the reason for this is due to two things: the first is the lack of proper follow-up of the implementation of investment projects in the various activity areas. Otherwise, how do we explain the conversion of beneficiaries of investment grants through public auction into housing and commercial premises, as if there were serious and effective follow-up, and actual interest in achieving development in the region by the local authorities, starting with the municipality through the relevant municipal people's councils, passing through the provincial authorities, starting with the provincial agency for urban real estate management and organization in Batna, as the representative of the municipality in managing its properties and as the one responsible for the granting process through public auction, passing through the various provincial departments and relevant administrative bodies? The second is the lack of awareness among citizens and their lack of interest in achieving local development, given their focus on their personal interests. Otherwise, how do we explain their conversion of properties that they know were granted to them for the purpose of implementing investment projects into housing and commercial premises? This means that citizens in these areas are not concerned with achieving development, but rather with achieving their personal goals by obtaining public property to convert it into private property. In fact, we also note that some legal proceedings have been initiated against the beneficiaries concerned, who have been the subject of numerous court rulings revoking their benefits and ordering the demolition of their buildings. However, the relevant authorities, including the parties that filed the lawsuits against these investors, have not implemented the relevant rulings, for reasons unknown to us.

Third: Investment in industrial real estate and achieving development under Laws No. 11/11 and 16/09:

This phase is also called the "granting of concessions by mutual consent" or "non-transferable concessions" phase. It begins immediately after the issuance of Law No. 11/11 dated July 18, 2011, including the Supplementary Finance Law for 2011. Decree No. 08/04, dated August 3, 2009, stipulates that granting concessions on real estate designated for investment by mutual consent is the sole method directed at investors of all kinds, while respecting the usufruct of only real estate suitable for implementing investment projects owned by the state.[8]

According to Article 3 of Order No. 08/04, as amended by Article 15 of Law No. 11/11, the concession is granted, based on a specification booklet, by mutual consent on state-owned land available to public institutions and bodies, or natural or legal persons subject to private law, for investment project needs, subject to applicable urban planning rules and regulations.

The concession is granted accordingly, pursuant to Article 5 of Order No. 08/04, as amended by Article 15 of Law No. 11/11, by a decision of the governor, upon the proposal of the Committee for Assistance in Site Determination, Investment Promotion, and Real Estate Control, on state-owned land, the remaining real estate assets of dissolved public institutions, the surplus assets of public economic institutions, and land belonging to industrial zones and activity zones. According to Law No. 16/09 of August 3, 2016, relating to investment promotion, investments must be registered with the National Agency for Investment Development before completion in order to benefit from the benefits it provides.[9]

The annual rental fee is determined by Article 9 of Order No. 08/04, as amended by Article 15 of Law No. 11/11. Pursuant to this article, the competent State Property Departments in the region determine the annual rental fee, which represents 1/20 of the commercial value of the plot of land subject to the concession.

The annual rental fee determined by the State Property Departments is subject to a reduction applied as follows:

• 90% during the investment project implementation period, which may extend from one to three years.

• 50% during the exploitation period, which extends from one to three years.

• A symbolic dinar per square meter (m^2) for a period of 10 years, after which it increases to 50% of the property royalty amount for investment projects established in the state that were used to implement the South and High Plateaus programs.

• A symbolic dinar per square meter (m^2) for a period of 15 years, after which it increases to 50% of the state property royalty amount for projects established in the states of the Great South.

• The annual royalty, as specified above, will be updated after the expiration of the 11-year period.

Under Law No. 16/09, Articles 12-13 stipulate that investors are exempt from the transfer of ownership for consideration and the real estate advertising fee for all real estate acquisitions made within the framework of the relevant investment. They are also exempt from registration fees, real estate advertising fees, and national property taxes, including the concession on built and unbuilt real estate intended for the implementation of investment projects. These concessions are applied for the minimum term of the concession granted. Furthermore, they are entitled to:

• A 90% reduction in the annual rental royalty amount determined by the State Property Authority during the investment implementation period.

• A 10-year exemption from real estate taxes on real estate properties included within the investment framework, starting from the date of acquisition.

• During the exploitation phase, Law No. 16/09 grants investors a 50% reduction in the annual rental royalty amount determined by the State Property Authority.

• During the exploitation phase, the annual rental fee determined by the State Property Authority for granting land through concessions for investment projects is reduced:

○ By a symbolic dinar per square meter for a period of 10 years, after which it increases to 50% of the State Property royalty for investment projects located in the High Plateaus, as well as other areas whose development requires a special contribution from the state.

○ By a symbolic dinar per square meter for a period of 15 years, after which it increases to 50% of the State Property royalty for investment projects located in the Great Southern Governorates.

♦ On this basis, 66 plots of land were granted within the framework of granting concessions through mutual consent for land designated for investment (activity zones), distributed across the various activity zones in the governorate, as shown in the following table:

Activity Zone:	**Number of plots granted under the concession by mutual consent**
Activity Zone: Ain Yagout Municipality:	25plots of land
Activity Zone: Ain Jasser Municipality:	19plots of land
Activity Zone: Merouana Municipality:	21plots of land
Activity Zone: Ngaous Municipality:	1plot of land
Total:	**66plots of land**

Table No. 3 shows the number of plots of land in the various activity zones in Batna Province distributed for investment under the concession by mutual consent

• Evaluating the role of investment in industrial real estate in achieving development during the concession award phase through public auction:

It is noteworthy in this area that 65 contracts have been completed to date by the Directorate of State Property, which were received by the concerned investors.

• In addition, the State Agency for Urban Real Estate Management and Organization has been involved in contributing to monitoring the implementation of investment projects, as part of a committee overseeing the implementation of investment projects, appointed by a decision of the State Governor. This committee prepares reports on monitoring investment-related work across activity zones and outside activity zones.[10]

In this regard, it is also important to note that the activity zone in the municipality of El Maadher in Batna Province is considered the most successful area in the field of granting industrial real estate for the implementation of investment projects, with the aim of achieving local development and promoting the national economy. Below, we will attempt to address the modalities of investment in this area.

- Immediately after the transfer of the Al-Ma'dhar Municipality's activity zone to the Agency, the latter began the process of appointing accredited investors, guided by the Committee for Assistance in Determining the Location, Investment Promotion, and Property Control to this area.

- Within this framework, thirty-two (32) investors were appointed on seventy-eight (78) plots of land, all of which were distributed within the framework of granting concessions by mutual consent established by Law No. 11/11 of July 8, 2011, including the Supplementary Finance Law for the year 2011.

- To complete the procedures for obtaining the concession contract by mutual consent:

• Seventy-eight (78) specifications were signed with thirty-two (32) investors (at a rate of one specifications per plot of land).

• Investors who signed the specifications were empowered to make concession decisions by mutual consent (one decision per investor).

- To contribute to the success of investment in activity zones across the Batna province, including the activity zone of the municipality of El Madher, the agency is working in coordination with the State Property Directorate, to which the beneficiary investors in the region have been transferred, to monitor the process of completing contracts. In this context, thirty (30) contracts have been completed and awarded.

- The Wilaya Agency for Urban Real Estate Management and Organization is also working to monitor the process of launching projects for investors who have obtained concession contracts, in coordination with the various departments that make up the Wilaya Committee, to help determine the location, promote investments, and control the property by periodically monitoring the progress of investment projects. In this context, twenty-seven (27) projects (in progress) have been launched, in an effort to ensure the implementation of the national policy of supporting investment. [11]

- Since the investment projects in the Al-Ma'ather Municipality's activity zone have not yet entered actual production, given that they are still in the process of being completed, we cannot determine their direct contribution to achieving local development. However, given that they meet the local requirements and needs of the population, these projects, which are close to completion and production, are likely to contribute directly to achieving local development.

In this regard, and considering that eliminating unemployment rates and providing job opportunities are among the most prominent forms and foundations of achieving development, specifications were signed with investors in the Al-Ma'ather Municipality's activity zone—as with other areas—and were accompanied by a pledge and commitment to employ the actual number of workers declared in the technical card submitted to the provincial committee to assist in determining the location, promoting investments, and controlling the property. - In this context, one thousand six hundred and eighty-two (1,682) job positions were identified, as stated in the technical card and the commitment attached to the specifications. This commitment will lead to the creation of actual job opportunities, which can contribute to reducing the unemployment rate, not only in the activity zone of the municipality of El Maadher, but also in the province of Batna as a whole.[12]

Following the issuance of Law No. 16/09, several files were submitted to the competent authorities, with the aim of expanding existing activity zones in the province of Batna, such as the expansion of the activity zone of the municipality of El Maadher, in addition to establishing new activity zones, such as the activity zone of the municipalities of Djerma, El Chamra, and Seriana, with the aim of implementing investment projects therein.

Conclusion:

After this brief overview of how the Algerian legislature regulates the granting of concessions on land allocated for investment, and the role of each method of granting real estate allocated for investment in achieving local development, **we conclude this research paper with the following findings:**

- The state works to provide the greatest possible amount of real estate to accommodate investment projects. In this regard, it has established activity zones through municipalities and facilitated the procedures for investors to obtain plots of land to accommodate their projects. It is currently working to expand some expandable activity zones, such as the activity zone in the municipality of Al-Ma'dhar, or to create new activity zones in the municipalities of Al-Shamra, Ain Al-Tuta, Al-Sha'ba, Seriana, and Jarma, etc. These are in the form of programs that will be implemented after approval by the relevant authorities.

• Some investors who benefited from the concession left the plots they benefited from vacant, without establishing any investment project (abandoning the investment). In fact, although these abandoned properties were not wasted through residential or commercial use, they did not achieve the purpose for which they were created, namely, promoting local development and the economy. However, the fact that these properties were not allocated to other activities leaves the door open for their redistribution and exploitation, and perhaps achieving the developmental purpose of this final distribution and exploitation.

• Other investors changed the nature of the investment project to one other than the one for which they were granted the concession. While this is the purpose for which the investment property was granted, changing the nature of the investment to another does not entirely contradict the objectives of achieving development. • Others never implemented any investment projects, but instead changed the allocation of the property granted under the concession, constructing residential units or commercial establishments unrelated to the investment projects. Here, we note that the property allocated or designated for development was diverted for another purpose. Since the investment project did not exist, we cannot speak of any development objective being achieved.

♦ In conclusion, we must point out that legal mechanisms play a significant role in contributing to industrial real estate investment in achieving development. Evidence of this is that many investment projects in various activity areas of the Batna province were not diverted from their development investment objective by the beneficiary investors, given the concession was granted through mutual consent. This is in contrast to the previous method, which was to grant the concession through public auction, where no project was actually implemented.

We also note that local authorities' fulfillment of their assigned role and their deterrent approach to investors who change the nature of their investment activities in real estate designated for development can contribute effectively to achieving local development. Evidence of this is that the local authorities of the municipality of El Maadher, unlike many other local authorities in the Batna province, have undertaken this role and undertaken the necessary follow-ups to implement investment projects. This commitment has prevented the conversion of activity areas into residential areas and prevented investment projects from being converted into commercial projects.

Therefore, the necessary deterrent measures must be taken against the local authorities responsible for monitoring the implementation of investment projects on real estate designated for development, as this represents one of the most important ways to achieve development, in light of the legal procedures and policies adopted by the Algerian legislature within the framework of achieving development. This is despite the fact that we believe that the contribution of investment in industrial real estate to achieving development cannot be achieved by granting these properties to private individuals who have proven in reality that they do not understand the implications of development, and also that after implementing their investment projects, they will seek to achieve commercial profits at the expense of achieving local development. Therefore, we believe that the state’s implementation of investment projects on real estate allocated for investment in various activity areas and industrial zones will necessarily contribute more effectively to achieving development.

References:

01 - Law No. 11/11 of July 18, 2011, including the Supplementary Finance Law for 2011.

02 - Article 4 of Law No. 16/09 of August 3, 2016, relating to investment promotion.

03 - Order No. 08/04 of August 1, 2008, setting the terms and conditions for granting concessions on state-owned land intended for the implementation of investment projects.

04 - Legislative Decree No. 93/12 of October 5, 1993, relating to investment promotion.

05 - Executive Decree No. 94/322 of October 17, 1994, granting concessions on national property lands located in special zones within the framework of investment promotion.

06 - Executive Decree No. 09/152 dated 02/05/2009, regarding the procedures for granting concessions on state-owned land intended for investment projects.

07 - Report addressed to the Governor of Batna Province, regarding: Activity areas across municipalities in Batna Province, prepared in 2012 by the Provincial Agency for Urban Real Estate Management and Organization in Batna.

08 - Report addressed to the Governor of Batna Province, regarding: Activity areas across municipalities in Batna Province, prepared in 2015 by the Provincial Agency for Urban Real Estate Management and Organization in Batna.

09 - Abbasi Siham, The Role of Provincial Agencies in Providing Real Estate for Investment, intervention during the media day on the legal and legislative frameworks for investment promotion, Chamber of Commerce and Industry of the Aures, Batna Province, 26-12-2015.

10 - Abbasi Siham, The Role of Investment in the Activity Zone of the Municipality of El Maadher in Opening Up Employment Opportunities "Reality and Prospects", a presentation during the media day on: Investment and Employment Opportunities in the Municipality of El Maadher, El Maadher, Batna Province, March 18, 2018.

***Footnotes:**

[1] - Article 23 of Legislative Decree No. 93/12 of October 5, 1993, concerning investment promotion.

[2] - Article 5 of Executive Decree No. 94/322 of October 17, 1994, concerning the granting of concessions for national property lands located in special zones within the framework of investment promotion.

[3] - Report addressed to the Governor of Batna Province, regarding activity zones across the municipalities of Batna Province, prepared in 2012 by the Batna Provincial Agency for Urban Real Estate Management and Organization.

[4] - Article 1 of Order No. 08/04 of August 1, 2008, establishing the conditions and procedures for granting concessions for lands belonging to the state's private property and intended for the implementation of investment projects.

[5] - Articles 13-14, ibid.

[6] - Articles 2-3 of Executive Decree No. 09/152 of May 2, 2009, regarding the procedures for granting concessions on state-owned land intended for investment projects.

[7] - A report addressed to the Governor of Batna Province regarding activity zones, prepared in 2015 by the Batna Provincial Agency for Urban Real Estate Management and Organization.

[8] - Article 15 of Law No. 11/11 of July 18, 2011, including the Supplementary Finance Law for 2011.

[9] - Article 4 of Law No. 16/09 of August 3, 2016, relating to investment promotion.

[10]- Abbasi Siham, "The Role of State Agencies in Providing Real Estate for Investment," a presentation during the Media Day on Legal and Legislative Frameworks for Investment Promotion, Chamber of Commerce and Industry of the Aures, Batna Province, December 26, 2015, p. 5.

[11] - Report addressed to the Governor of Batna Province, regarding: Activity Zones, prepared in 2015, op. cit.

[12] - Abbasi Siham, "The Role of Investment in the Activity Zone of the Municipality of El Maadher in Opening Up Employment Opportunities: Reality and Prospects," a presentation during the Media Day on: Investment and Employment Opportunities in the Municipality of El Maadher, El Maadher, Batna Province, March 18, 2018, p. 8.