

Legal Fundamentals Of Investment In Algeria

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Abstract:

The issue of investment is one of the most important issues that the Algerian legislator has been concerned with organizing it by working on the enactment of a set of legislative texts that mainly aim at approving a legal system for investment in Algeria. The legislator was mainly concerned with the issue of incentives and guarantees for the benefit of investors. He also paid great attention to industrial real estate, which has great importance, especially when it comes to industrial investment.

key words: investment , guarantees, incentives, concession.

Résumé :

La question de l'investissement est l'une des questions les plus importantes que le législateur algérien s'est souciée de l'organiser en travaillant à la promulgation d'un ensemble de textes législatifs visant principalement à approuver un système juridique pour l'investissement en Algérie. Le législateur s'est principalement préoccupé de la question des incitations et des garanties au profit des investisseurs, il a également accordé une grande attention à l'immobilier industriel, qui a de grande importance, notamment lorsqu'il s'agit d'investissements industriels.

key words: l'investissement, garanties, garanties, concession.

Introduction:

Investment is considered the cornerstone of economic and social development as it is the main engine of development through increasing the national product, contributing to the development of other economic activities such as agriculture

and trade and providing people with the necessary manufactured products, in addition to being a decisive element in the field of technology transfer.

The Algerian legislature has allocated, through the various laws that regulated the field of investment, an important part of the articles for the field of investment components, which are intended as incentives and protection, by directly granting several incentives to investors, whether foreign or national, because of the role of these incentives in providing an economic atmosphere.

To show how investment legal issues had been organized in Algeria the following Research problem will be addressed in this study: How the Algerian legislature regulates investment ?

In order to answer this problem, this study will be divided into three topics, the first of which will be devoted to the conceptual framework for investment, the second one will be devoted to investment incentives within Algerian law, provided that the third topic will be devoted to the concession contract as the legal means to regulate the problem of industrial real estate in Algeria.

this study has been relying on the legal and analytical approach.

The first topic : the conceptual framework of investment :

In this section, we will deal with defining the concept of investment, as well as defining the most important concepts related to investment

First requirement: investment definition :

Investment can be defined from several angles, the most important of which are the following :

First : the terminological definition :

It is defined as a conscious and rational effort exerted in financial resources and human capabilities in order to multiply and develop them and obtain their benefits and fruits ⁽¹⁾

second : the economic definition :

economically investment is utilizing money for any term in any asset, title, property, or participations held for the preservation or development of money, whether with periodic profits or an increase in the value of money at the end of the period or with non-material benefits ⁽²⁾

Bibliography list :

(1) - Ahmed Shawki Dunia, Development Finance, Islamic Economics (A Comparative Study), The Resala Foundation, Beirut, 1984, p. 87.

(2) - The Scientific and Practical Encyclopedia of Islamic Banks "Al-Istithmar", International Federation of Islamic Banks, Makkah Al-Mukarramah, 1982, p. 16.

third : the conventional definition :

as stated in the ASEAN Agreement for the Promotion and Protection of Investments, the definition of investment is that "investment includes every type of asset" and includes a list of five groups of investment that include movable and immovable property, stocks, bonds, mortgages, and monetary claims of financial value, Intellectual property, and concessions granted to businesses ⁽¹⁾

fourth : the legal definition :

The Algerian legislature also defined investment in Law 16-09 related to the promotion of investment dated August 3, 2016, in Article 2 thereof as:

Under this law, investment means the following:

1. Acquisition of assets as part of the development of new activities and the expansion of production and / or rehabilitation capabilities.
2. Contributions to the share capital of a company.

second requirement: most important concepts related to investment:

there are several concepts related to investment, the most important of which are the following :

first : the investor

An investor is any other person or entity (such as a company or mutual fund) that commits capital with the expectation of receiving financial returns.

Investors rely on various financial instruments to gain the rate of return and achieve important financial goals ⁽²⁾

Second : Investment project

carrying out an investment activity in the sectors of industry, agriculture, trade, education, health, transportation, tourism, housing, construction, building, sports, electricity, energy, natural resources, water, communications and technology. The minister concerned with investment affairs may coordinate with the relevant ministry or ministries in order to achieve the economic development of the state ⁽³⁾

third : Portfolio

is a grouping of investments made by institutions or individuals, that is, it is the sum of the shares or bonds owned by an individual or institution in different

(1) - Abdel-Karim Baadash, Foreign Direct Investment and its Impact on the National Economy during the Period 1996/2005, PhD Thesis in Economic Sciences, Specialization of Money and Finance, Faculty of Economic Sciences and Management Sciences, University of Algiers, 2007/2008, p. 32.

(2) - <https://trading-secrets.guru/مصطلحات/تعريف-المستثمر>.

(3) - Muhammad Al-Mahi Salih Ahmed, Settlement of Investment Disputes, Research presented for a Master's Degree in Private Law, Department of Law at Shendi University, State of Sudan, 2019, pg. 27.

companies. The goal of the investment portfolio is often to reduce risks or what is known as diversification, by owning More than one original ⁽¹⁾

fourth : Investment funds :

are investment tools that provide people who do not have the ability to directly manage their investments the opportunity to participate in the financial markets, whether global or local ⁽²⁾

fifth : Investment clubs

are groups that meet regularly to learn about investment and analyze investment options, and in many cases, buy and sell investments as a unit ⁽³⁾

The second topic : investment incentives in Algeria

As indicated above, the legislator, in line with the requirements of advancing the economy and facing the challenges imposed by the requirements of the new global economic system, the legislator responded to these challenges, through a set of guarantees and advantages that constitute the most important of these incentives.

First requirement: investment guarantees in Algeria

Investment guarantees in Algeria are divided into two main types: legal and judicial guarantees on the one hand and procedural guarantees on the other hand, and they are prescribed for all types of investment.

Firstly - : ensuring freedom of investment:

The first and most important guarantee that the Algerian legislator has devoted to the benefit of investors is the guarantee of freedom of investment.

The constitutional text had an impact on the legislator, when it approved the freedom of trade and industry through the 1996 Constitution ⁽⁴⁾, Article 37 thereof, which states: "Freedom of trade and industry is guaranteed and exercised within the framework of the law," which corresponds to Article 43 of the 2016 Constitutional Amendment ⁽⁵⁾, which is stated by "Freedom Investment and trade are recognized, and they are practiced within the framework of the law. "

Secondly - Ensure that there is no discrimination in the transaction between the national investor and the foreigner:

Non-discrimination between the national and foreign investor is one of the guarantees adopted by the Algerian legislator, and this is what was stated in Article

(1) - https://ar.wikipedia.org/wiki/محافظة_استثمارية.

(2) - <https://www.ofeed.com/442019-انواعها-وانواعها-تعريفها-والاستثمار-تعريفها-وانواعها>.

(3) - <https://ar.vijversenkoi.info/9950-joining-an-investment-club.html>.

(4) - Article 37 of the Constitution of November 28, 1996, the Official Journal No. 76.

(5) - Article 43 of the Constitution of 06 March 2016, the Official Journal No. 14

21 of Law 16-09, which states, "... foreign natural and legal persons receive fair and equitable treatment regarding the rights and duties associated with their investments" '

Thirdly - Ensuring the stability of the applicable law (legislative stability):

This guarantee is necessary, because the instability of legislation negatively affects the interests of investors and generates a feeling of distrust and reassurance of the fate of their investments due to the large number of amendments, for all of this, the stability of the legislation was the only way to achieve the investor's expectations and reach the economic results that he planned and thus the success of his projects.

The Algerian legislator has stipulated this guarantee in accordance with Article 22 of Law 16-09 ⁽¹⁾, which states: "The effects resulting from the revision or cancellation of this law, which may occur in the future, shall not apply to the investment made within the framework of this law, unless the investor requests it Frankly "

Fourthly - Ensuring fair and just compensation in case of expropriation :

The Algerian legislator has stipulated a guarantee against expropriation according to Article 23 of Law 16-09 as follows: In addition to the rules governing expropriation, the investments made cannot be the subject of appropriation except in the cases stipulated in the applicable legislation.

This requisition and expropriation will result in a fair and equitable compensation.

Fifthly - Ensuring the settlement of disputes between the investor and the host country:

The Algerian Investment Law, like other comparative legislations, has adopted various means in settling investment disputes, some of them consensual, such as conciliation and reconciliation, and others are judicial, such as resorting to national courts or international arbitration, and this is what was stated in the text of Article 24 of Law 16-09, which states: Every dispute between the foreign investor and the Algerian state caused by the investor or due to a measure taken by the Algerian state against him shall be subject to the competent judicial authorities regionally, except in the case of bilateral or multilateral agreements concluded by the Algerian state related to reconciliation or arbitration, or in the case of an agreement with The investor provides for a settlement clause that allows two parties to agree to a private arbitration. "

(1) - Law 16-09 of August 3, 2016, related to the promotion of investment. Official Journal No. 46, dated August 03, 2016.

Second requirement : investment advantages in Algeria

Law 16-09 included a set of privileges, given that the investor's interest lies in these privileges, especially taxation, as the relationship of collection and investment is evident through the policy of incentives, which takes the form of tax exemptions, and in this regard, the law distinguished between two basic systems, namely, the public system and the exceptional system.

Firstly - The common benefits of all usable investments

They mean those tax and customs privileges and incentives granted to investments regardless of their nature and location, and they were stipulated in Law 16-09 related to the promotion of investment as well as the tax and customs law and various financial laws. Exploitation.

1- The joint investment advantages granted in the completion stage:

Exemption from customs rights⁽¹⁾ with respect to imported goods that directly enter the realization of investment.

- Exemption from the value-added fee with respect to imported or locally acquired goods and services that directly enter the investment implementation.
- Exemption from payment of the right to transfer ownership in lieu of all real estate acquisitions made within the framework of the relevant investment.
- Exemption from registration rights and fees for real estate advertising and the amounts of real estate that include the right of concession over built and unconstructed real estate properties destined for the completion of investment projects. These advantages are applied to the minimum period of the concession granted.
- A reduction of 90% of the annual rental royalty amount determined by the state property authorities during the period of realization of the investment.
- Exemption for a period of 10 years from the real estate fee on real estate properties that are included in the investment framework, starting from the date of acquisition.
- Exemption from registration rights in relation to constituent contracts for companies and capital increases.

2 - The joint investment advantages granted in the stage of exploitation:

Law 16-09 added some privileges related to the stage of project exploitation, but with conditions :

- The control of the project, that it is in an active state, by the tax authorities.
- The necessity of submitting a request by the investor.

(1) - Customs rights: applied to imported goods, and these rights are guaranteed as of 01/01/2002 three percentages, in addition to the exemption, a low rate of 1%, a normal rate of 15%, a high rate of 30%.

These exemptions are limited in time to three years, starting from the inspection of the investment project, these privileges are for:

- Exemption from tax on corporate profits.
- Exemption from the fee for professional activity.
- Reduction of 50% of the annual rental royalty amount determined by the state property authorities.

Secondly - The exceptional advantages of investment:

This system relates to the special privileges granted to investments made in areas whose development requires the state's contribution, as well as the advantages granted to investments of special importance to the national economy.

1- Investments in areas whose development requires a special contribution from the state:

The determination of these areas is subject to the authority of the National Investment Council, and the last order has granted to investors who carry out their investments in such areas several privileges.

a- In the stage of realizing the investment, we find:

- The state shall fully or partly bear the expenses of works related to the works related to the basic establishments necessary for the completion of the investment, after its evaluation by the agency.

-Reduction of the annual rental royalty amount by the state property services in the title of granting lands by concession in order to implement investment projects:

- In a symbolic dinar per square meter during a period of 10 years, and after this period it rises to 50% of the amount of state property royalty for investment projects built in areas belonging to the High Plateaus, as well as other areas whose development requires a special contribution by the state.

- In symbolic dinars per square meter during a period of 10 years, and after this period it rises to 50% of the amount of state property royalty for investment projects established in the states of the Great South.

b-as for the exploitation stage, we find:

-Exemption from tax on corporate profits.

-Exemption from the fee for professional activity.

This is for a period of ten (10) years, starting from the date of commencement in the exploitation phase, but with conditions:

-The control of the project, that it is in a state of activity, by the tax authorities.

-The necessity of submitting a request by the investor.

These exemptions are time-bound and may extend for ten (10) years from the date of the agreement's conclusion.

- Exemption from the fee on the added value of goods directly involved in the realization of the investment.
- The application of the right of registration at a low rate of two per thousand in relation to incorporation contracts for companies and capital increases.
- The order added two important concessions, the first advantage being exemption from the fee on the added value of goods and services that are not excluded from the advantages and that directly enter the realization of the investment, whether imported or acquired from the local market.
- Exemption from customs rights in respect of imported goods that are not excluded from privileges that are directly involved in the realization of investment, after the previous order was limited to the application of the low percentage.

As for the exploitation of the investment project, the benefit from the concessions is subject to the examination of the direct exploitation of the tax interests in addition to the investor's request to obtain these privileges, the matter is related to:

- Exemption for a period of ten years from actual activity from tax on corporate profits and from fees on professional activity, and tax is imposed on corporate profits after the company sets its accounting at the end of the year and declares the realized profit that is taxable at a rate of 30% except when the company wants to reinvest it A rate of 15% applies to him, and this type of tax is not paid by the company carrying out an investment process except from the eleventh year.
- Exemption for a period of ten (10) years starting from the date of acquisition from the real estate fee on real estate holdings that fall within the framework of investment.

2- Investments that are of special importance to the national economy:

With reference to the provision of Article 17 of Law 16-09, the privileges granted to this type of investment are determined according to an agreement prepared by negotiation, between the investor and the agency, under the supervision of the Minister in charge of promoting the investments and after taking a corresponding opinion from the National Investment Council.

It relates to the following advantages:

- Extending the period of exploitation benefits mentioned in Article 12 for a period that could reach ten (10) years, and these advantages are:
- Exemption from tax on corporate profits.
- Exemption from the fee for professional activity.
- Granting an exemption or reduction in accordance with the applicable legislation for customs and tax rights and other deductions of a tax nature, subsidies, aid or financial support, as well as all the facilities that may be granted under the title of the completion stage.

3-Additional benefits for privileged or job-creating activities :

The period of exploitation benefits granted for the benefit of investments made outside the regions of the south and the highlands and the landscape of every other region whose development requires a special contribution from the state is increased from three years to five years when it creates more than one hundred jobs during the period extending from the date of registration of the investment until the end of the first year From the stage of exploitation at the most.

The benefits specified in Articles 12 and 13 shall not cancel the special fiscal and financial incentives established in accordance with the legislation in force for the benefit of tourism, industrial and agricultural activities.

Also, the presence of several advantages of the same nature, whether those established under the legislation in force or those stipulated in the investment law, do not lead to their application together, and in this case the investor benefits from the best incentive

The third topic: the concession contract as a procedural mechanism for embodying investment in Algeria :

The Algerian legislator has adopted the concession method as a mechanism to advance investment in the field of industry. The concession contract is considered one of the most important named administrative contracts , it is a contract characterized by the combination of introducing the methods of public law in addition to the provisions of private law.

First requirement : the definition of the concession contract and its legal nature

Several legal texts, including regulatory orders and texts, for defining the conditions and methods of granting a concession to exploit industrial real estate and establish investment projects, have been concerned with defining the concession contract, which is intended as a concession contract for investment and defining its content.

Firstly : the definition of the concession contract:

1- **Defining the concession contract according to Order No. 04-08:** The concession contract is defined as follows: "The concession is granted on the basis of a book of conditions, by compromising the lands belonging to the private property of the state available, for the benefit of public institutions and bodies or natural or legal persons subject to private law. And that is for the needs of investment projects, and taking into account the development rules in force, " it is thus a contract that entitles the state represented in the management of state property the right to use a plot of land that is not allocated or potentially allocated - that is, available and affiliated with its own property - for the benefit of a natural or

legal person subject to private or public law , and this is to make use of that land to establish an investment project ⁽¹⁾ "

2- Definition of the concession contract according to Executive Decree No. 09-152:

The concession contract was defined according to the Tender Book Form as follows: The grant of a concession is an agreement by which the state authorizes for a certain period to use available land belonging to its private property for the benefit of a natural or legal person subject to the law. For the purpose of realizing an investment project. ⁽²⁾ "

Defining a concession contract, as above, leads us to define the following characteristics:

A-The concession contract arranges usufruct:

Article 20 of Law No. 08-14 states that "The conduct of the public utility or the concessionaire, subject to the provisions of Article 64 bis above and Article 69 bis below, benefits from the right to use the property belonging to the national property assigned to this interest according to the purpose of its allocation and for the benefit of the public interest, and he is entitled to Use it exclusively, benefit from the product, and collect royalties from the users⁽³⁾

B-The concession contract is a formal contract:

The formal contract is defined as the contract that requires the formal element to be present as a fourth pillar beside the corner of satisfaction, the object and the reason. It is also defined as the contract that the law requires that it be in a formal form. ⁽⁴⁾

The Algerian law considered the concession contract a formal contract, and this is what Article 19 of the model book of conditions for granting a concession by mutual consent stipulates that: "The administrative contract that includes granting the concession over the land plot for the benefit of the beneficiary is prepared by

(1) - Ordinance No. 08-04 of September 1, 2008, which defines the conditions and modalities for granting concessions on lands belonging to private property of the state and directed to the realization of investment projects, Official Journal No. 49 dated September 3, 2008.

(2) - Executive Decree No. 09-152 of May 2, 2009, which defines the conditions and modalities for granting concessions on lands belonging to private property of the state and directed to the realization of investment projects, Official Gazette No. 27 dated May 6, 2009

(3)- Law No. 08-14 of July 20, 2008, amending and supplementing Law 90-30 of December 01, 1990, which includes the National Property Law, Official Gazette No. 44, dated August 03, 2008.

(4)- François terré, philippe simler, yves lequette, civil law, obligations 8th edition, DALLOZ, paris, 2002.

the director of state property for a state... a decision authorizing a minister Finance on... ”⁽¹⁾

C-The concession contract is an administrative contract:

The concession contract is also considered an administrative contract, and this character is evidenced by the second paragraph of Article 17 of Executive Decree No. 09-152, which states that “the concession granted by an administrative contract prepared by the State Property Administration attached to a book of conditions prepared, according to the forms attached to this decree And it precisely defines the investment program as well as the terms and conditions for granting the concession .

This is the same thing that was enshrined in Law 08-04 that granting the concession is consecrated by a contract prepared by the administration of state property after the approval decision is issued by the regionally competent governor. In this regard, Article 10 of Ordinance No. 08-04 states that “the concession mentioned in Article 4 above with an administrative contract prepared by the State Property Department attached to a burden book that accurately defines the investment program, as well as terms and conditions for granting the concession ⁽²⁾

D-The concession contract is a long term contract:

The concession contract is distinguished for being a long-term contract, as Article 12 of Executive Decree No. 09_152 stipulates that “The concession mentioned in Article 07 above shall be granted for a period below thirty-three (33) years, renewable twice, and a maximum of ninety-nine (99) years.

Secondly : The legal nature of the concession contract:

The special nature of the concession contract by combining the characteristics of public law and private law at the same time made it distinct from other contracts. Therefore, by referring to the content of the concession contract, it can be seen that it combines the methods of public law and methods of private law.

1 - manifestations of public law:

The most important aspects of public law in an investment contract are as follows:

A- The existence of a public legal person: that is, that between the two parties there is a person of public law, whether the state or a public moral person, and the necessity for one of the parties to the administrative contract to be a legal person is

(1) - Article 17 of Executive Decree No. 09-152, previous reference.

(2) - Belkaibat Mourad, The State's Role in Granting Concessions in the Algerian Investment Law, Journal of Policy and Law Books, University of Kasdi Merbah and Ouargla, Issue Seven, June 2012, p. 232.

what distinguishes administrative contracts from others, because the contract is not described as administrative except if the administration is one of its parties.

B- The administration included in the concession contract a set of organizational conditions: that is, the administration's intention to act as a public authority, that the contract includes exceptional conditions that are not usual in private law contracts, whether in the form of privileges of management that the other party does not enjoy, or exceptional rights.⁽¹⁾

2 - Aspects of private law:

The most important aspects of private law in a concession contract are as follows:

A- The necessity of having the same elements of private contracts in the concession contract:

In addition to the necessity of the availability of the pillars of private contracts, they are the corner of satisfaction, and the necessity of the existence of the two wills, their expression and their congruence, as well as their freedom from the defects of consent, because the concession contract is like that of all private contracts. The law requires them to be present and appointed and as well as two projects, in addition to the formal element, according to which, as previously mentioned, it must be poured into a formal form by the competent employee and in accordance with the established legal conditions.

The concession contract is not only satisfied with these general principles in private contracts, but requires a set of other conditions related to the subject matter of the concession, such as the duration of the contract, the subject of the contract⁽²⁾

B- The concession contract is a time contract:

Where time constitutes a fundamental element, as time determines the period of use of the land or real estate assets subject to concession, its end is linked to the end of time.⁽³⁾

The privilege is granted for a minimum period of thirty-three (33) years, renewable twice, provided it does not exceed ninety-nine (99) years⁽⁴⁾, in order to

(1) - Akli Naima, The Legal System for Administrative Concession Contract, Memorandum for Masters Degree, Contract Law Branch, Faculty of Law and Political Science, University of Mouloud Mammeri Tizi Ouzou, Algeria, 2013, p. 50.

(2) – Khawadjia Hanan Samiha, The Legal System of Industrial Real Estate in Algeria, Thesis for a PhD in Sciences, Special Law Division, Aknoun Real Estate Branch, Faculty of Law, University of Constantine 1, 2015, p. 284.

(3) - Article 24 of Executive Decree No. 92-152 "The concession is granted for a period of at least thirty three (33) years, renewable twice, and a maximum of ninety nine (99) years."

(4) - Article 28 of the model book of conditions attached to Executive Decree No. 09-152 states: "The process of acquiring the granted plot and commencing use of it from the beneficiary of the concession is embodied in a report prepared by the state director of state property immediately after the concession contract is delivered."

embody the use of the land plot or real estate asset subject to the concession, immediately to deliver the concession contract through a report prepared by the State Director of State Properties ⁽¹⁾

C- The concession contract entitles its holder a real estate right:

It is a real right that includes the element of use of the land plot or real estate asset, and the state retains the right of ownership, meaning that it remains the owner of the right to the land, without the owner of the concession being able to collect the various elements of ownership.

The Algerian legislator has stipulated that the buildings and establishments completed above the land within the framework of the implementation of the investment project and the legal inspection based on the certificate of conformity, their ownership is compulsorily devoted by the investor on the land granted the concession on the initiative of the latter with a notarized contract⁽²⁾

D- The concession contract requires the publication in the real estate governorate:

This is due to the fact that the subject of the concession contract is an actual real estate rights, which requires its declaration in the real estate governorate in order to produce its legal effect in confronting the two parties, which are the state on the one hand and the investor on the other side, as well as in the face of others who may claim a right over them, so that his month will be an evidence against him.

Second requirement : procedures and method for granting the concession contract

The investment contract is awarded according to procedures and mechanisms that we address in the following:

Firstly - Conditions related to submitting the application and studying it:

Industrial real estate assets are obtained by directing the request to different bodies according to the nature and size of the investment project, as follows:

1- Submitting the request to the committee for assistance in locating, upgrading investments and controlling real estate:

This committee is concerned with assistance in determining the location, upgrading investments and controlling the real estate ⁽³⁾ in the field of assistance in determining the location of the investments that will be carried out on the real

(1) - Khawadjia Hanan Samiha , op.cit p 284.

(2) - See Executive Decree No. 07-120 of April 23, 2007 organizing the committee for assistance in locating, promoting investments, controlling real estate, organizing, forming and conducting it.

(3) - See Executive Decree No. 07-119 of April 23, 2007, establishing the National Agency for Real Estate Mediation and Control and defining its Basic Law, Official Gazette No. 27, dated April 25, 2007.

estate assets located in the areas of activities as well as the properties located within the vicinity of the new cities in addition to the subsidiary properties For state private property that does not belong to the real estate portfolio that has been assigned to the National Agency for Mediation and Real Estate Control.

2- Submitting the application to the National Agency for Real Estate Mediation and Control:

The application is submitted to this agency if the real estate asset subject of the request falls within its real estate portfolio, as this agency ⁽¹⁾ is concerned with certain real estate assets and not others, they are the assets that are part of the state's private property as Follows:

A- The remaining assets belonging to independent public institutions and to dissolved non- independent one.

B - Surplus assets from economic public institutions in case of activity that are not necessary or in excess of the activity of these institutions.

C - Assets available at the level of unallocated, un-granted, or unused industrial zones despite their granting.

D- The property whose owner has entrusted the task of managing it to the National Agency for Real Estate Brokerage and Control.

E- The agency's own properties that it acquired from its own funds in order to resell it to investors after it has been prepared and divided.

Secondly : Conditions that must be met on the plot of land:

These are the conditions that Article 06 of Decree 09-152 dealt with by stating that the real estate vessels that must be the subject of a privileged right require the following:

- That these lands belong to the private property of the state.
- That it is not an allocation and is not in the process of being allocated for the benefit of public interests of the state to meet their needs.
- That they are located in durable or buildable sectors as specified in the preparation and reconstruction tools, with the exception of investment projects that need to be located outside these sectors due to their nature.
- The first article of the booklet of conditions form that defines the terms and conditions applicable to the granting of a concession through public auction of the land parcels belonging to the private property of the state and directed to the implementation of investment projects. The plot subject to granting the concession must be directed to absorb an investment project and every change in its

(1) - Article 06 of Decree 09-152 previous reference.

destination or use in whole or in part, for purposes other than those specified in the book of conditions, he shall terminate the grant of the concession.

- The lands belonging to the state concerned with this device must belong to the private property of the state, not allocated and not in the process of being allocated for the benefit of the public interests of the state, and they must also be located within the durable sectors or subject to development Or constructive, we are defined by the master plans for development and reconstruction, which are capable of incubating buildings according to the land occupation plans.

-Exceptionally, concessions may be granted on lands located outside of durable or constructive sectors for the benefit of investment projects that, by their nature, cannot be implemented in these sectors ⁽¹⁾

A-Lands excluded from the concession right: they are the lands that Article 02 of Ordinance 08-04 excluded, and which remain subject to its own provisions, namely:

-Agricultural lands.

-Lands located within the mining oceans.

- Lands destined for real estate promotion.

-The lands located within the perimeters of archaeological and cultural sites.

Thirdly : Granting concession by mutual consent :

Under the Supplementary Finance Law of 2011, the concession is granted on the basis of a book of conditions by compromising the lands belonging to the private property of the state available for the benefit of public institutions and bodies or natural or legal persons subject to the needs of investment projects, taking into account respect for the construction rules in force, ⁽²⁾ and accordingly according to the Supplementary Financial Law For the year 2011, the public auction formula for granting a concession right over industrial property was canceled.

The state grants the right of concession by mutual consent that is not transferable into a waiver for a period of 33 years, renewable twice over the following properties and lands:

- Real estate and lands belonging to private property of the state and designated for investment, including those located in areas of tourism expansion and new cities.

- The remaining assets belonging independent public institutions and to dissolved non-independent ones.

(1) - Article 03 of Ordinance 04/08, previous reference, amended and supplemented by Article 15 of the 2011 Supplementary Finance Law.

(2) - Article 05 of Ordinance 04/08, previous reference, amended and supplemented by Article 15 of the 2011 Supplementary Finance Law.

- The surplus assets of the economic public institutions in an active state.
- The land plots located in the industrial areas.
- The land plots located in the areas of activity and belonging to the financial disclosure of the real estate agencies of the states.
- The concession shall be granted by mutual consent on the basis of a decision of the competent regional governor and on the proposal of:
 - Committee to assist in determining the location, promoting investments, and seizing real estate on lands (built or unconstructed property) belonging to the private property of the state or affiliated with an industrial zone or activity zone or represents a residual asset or a surplus asset.
 - The governing body of the new city, after the approval of the minister in charge of preparing the region, when the plot is located within the vicinity of a new city.
 - The National Agency for Tourism Development and after the approval of the Minister in charge of Tourism, when the plot of land belongs to a tourist expansion zone

Conclusion

With the beginning of the economic openness, it can be said that the Algerian state has resorted to applying the method of granting concession contracts in the industrial field with the private sector, whether national or foreign, as a strategy aimed at involving it in the process of achieving national development.

The Algerian government has established that the principle of achieving economic development depends on the extent of the contribution of the national or foreign private sector. Therefore, economic reforms came in parallel with the provision of a legislative framework that allows attracting and encouraging investors in the field of industry.

It has also established that achieving national industrial development capable of diversifying exports, raising the capabilities of the national economy and ridding it of its dependence on hydrocarbons, requires the provision of the legal and legislative framework capable of attracting the foreign investor and encouraging the national investor.

In order to complement the success of this specific legislative framework for the legal system for investment, a set of executive orders and decrees were issued organizing how to grant concessions on lands belonging to the private property of the state and are intended for the completion of investment projects aimed at encouraging the national investor to take the initiative. The various investment laws provide for a set of guarantees and incentives of various forms, as well as providing the necessary protection from various risks to the investment process and facilitating its success in implementing the content of the concession contract.

