How to Cite:
Wardia, K., & Nabila, S. (2025). Practice of leasing in Algerian Legislation: Legal and economic approach. *International Journal of Economic Perspectives*, *19*(2), 361–371. Retrieved from https://ijeponline.org/index.php/journal/article/view/866

Practice of leasing in Algerian Legislation: Legal and economic approach

Dr. Kichou Wardia
University of Abderahman Mira-Bejaia, Algeria
Email: kichouwardia7@gmail.com

Dr. Smaili Nabila
University of Mouloud Mammeri Tizi-Ouzou, Algeria
Email: nabila.smaili@ummto.dz

***Abstract*---**Many countries, faced with the shortcomings of traditional financing methods, are now seeking more flexible, cost-effective financial solutions that help overcome potential obstacles. In response to global economic changes, these countries, including Algeria, have turned to commercial credit options such as leasing. The Algerian legislator, in Ordinance 03-11 on currency and credit, which amends and supplements Ordinance 96-09 on leasing, defines leasing as a commercial and financial operation. This operation is carried out by banks, financial institutions, or leasing companies that are legally authorized and explicitly licensed to do so, in partnership with Algerian or foreign economic operators. These operators can be natural or legal persons governed by private or public law. The contract is based on a lease agreement, which may or may not include a purchase option for the lessee, and pertains exclusively to movable or immovable assets used for professional, commercial, or artisanal purposes. Therefore, leasing, or the leasing contract, is an effective financing tool in Algeria. It provides viable means for funding economic projects and various investments, helping to achieve the desired economic objectives, especially given the proven limitations of other traditional financing methods in fulfilling their role.

Keywords---Economic, Financing, Algerian Law, Leasing Contract, Projects.

Introduction

Over the past two decades, Algeria has been transitioning toward a market economy. The liberalization of the Algerian economy has led to fundamental

Submitted: 27 December 2024, Revised: 18 January 2025, Accepted: 04 February 2025

changes that businesses and banks must adapt to in order to align with these transformations. However, regardless of the willingness to embrace change, the innovative momentum initiated by companies and banks, or the significance of the measures taken, their effectiveness remains contingent upon the broader socio-economic context.

In terms of financing, progress must necessarily and urgently evolve to better address the needs expressed by economic operators, underpinned by the universal principles of a market economy. The role of banks is to enhance profitability, thereby increasing companies' self-financing capacity, while simultaneously ensuring the preservation of their own financial stability as a key objective to achieve.

Despite all this, it must be said that the development, growth, and sustainability of a company are closely tied to its financing. A company's resources must be sufficient to enhance or even renew its production equipment, which may have become completely obsolete, significantly reducing its production capacity and, consequently, impacting its ability to create wealth and jobs.

Companies must adapt to markets characterized by fierce competition, and to remain competitive, both qualitative and quantitative production is essential. Moreover, statistics show that Algerian companies often rely on outdated equipment. Renewing their production tools has thus become imperative to strengthen their role in the market economy. Currently available statistics reveal that this situation has become increasingly problematic, particularly due to the rising cost of acquiring new equipment.

Traditionally, two main financing methods are available: equity financing and debt financing. The combination of these two sources is theoretically expected to cover the needs associated with the investment cycle. The extent of investment financing requirements determines the long-term financial resources to be mobilized. This is why companies have the option of combining equity and borrowed capital to meet their investment and operational needs. However, they face specific challenges, particularly a lack of sufficient equity and difficulties in securing medium- and long-term bank loans, as their financial structures are often deemed fragile and, therefore, riskier.

Indeed, corporate surveys and financial analyses by the Bank of Algeria consistently highlight dissatisfaction among entrepreneurs regarding financial intermediaries, who are accused of being reluctant to commit to medium- and long-term financing for businesses. This grievance is particularly pronounced for small enterprises due to their lack of adequate guarantees and high-quality information.

Nevertheless, companies can consider an alternative mode of investment financing: *leasing*, also known as *credit-bail* (lease financing). This method has achieved undeniable success in developed countries and can be applied to various types of equipment. Leasing gained significant recognition in the financing of airplanes and ships, as it provides flexible financing for a company’s fixed assets.

It has become a modern alternative to traditional bank loans, offering a competitive solution for financing investments.
Given that leasing undeniably offers savings in equity and cash flow, its growth can be attributed primarily to its intrinsic advantages, making it a highly sought-after financial product among businesses.

Under these circumstances, isn't leasing one of the viable solutions compared to traditional financing methods, particularly for Algerian SMEs that lack a credit tradition or the required guarantees to access conventional forms of financing? The absence of suitable financial solutions for SMEs is, therefore, a significant factor driving the development of leasing in Algeria.

This study aims to address that question, focusing on whether this financing method can contribute to the growth and revitalization of small and medium-sized enterprises, which are key players in wealth and job creation.

First, we will begin with a general descriptive analysis of the concept of *credit-bail* or *leasing*. This includes its basic operating principles, conceptual framework, and theoretical underpinnings. In the second part, we will examine the practical reality of leasing in its Algerian context by analyzing data from our survey (updated) conducted among 50 SMEs during the Algiers International Fair in 2009.

We will assess the level of development leasing has achieved over the two decades since its introduction, exploring its dynamics and the challenges it faces. Finally, we will propose recommendations to promote and enhance its application.

Section 1: Financing Leasing in Algerian Law

1- Definition of Leasing in Algerian Legislation:

The definition of a leasing contract is provided in Ordinance 96-09 on leasing, specifically in Article 1, which states:

"Leasing, as referred to in this Ordinance, is a commercial and financial transaction carried out by banks, financial institutions, or legally authorized and explicitly licensed leasing companies. These transactions are conducted with Algerian or foreign economic operators, whether natural or legal persons, from the public or private sectors. The operation is based on a lease contract that may or may not include a purchase option in favor of the lessee. It concerns movable or immovable assets intended for professional use, commercial premises, or artisanal establishments."[1]

The Algerian legislator also referred to leasing as **"financial leasing"** under Ordinance No. 03-11 concerning money and credit. What distinguishes the leasing contract from other types of contracts is the **option right** granted to the financial lessee at the end of the contract term. Like any fixed-term contract, it has a defined beginning and end. Upon reaching the natural conclusion of the contract, the financial lessee retains all the rights, obligations, benefits, and risks

[1] **Ordinance 96-09**, dated January 10, 1996, concerning Leasing, Official Gazette No. 03, dated January 14, 1996.

associated with the ownership of the financed asset. Essentially, it represents a **transfer of ownership**.[2]

2- The Legal Importance of the Leasing Contract:

Commercial life has seen the emergence of various contracts and agreements to keep pace with the technological advancements characteristic of this era. These contracts are difficult to classify under the traditional categories of contracts established by civil law. The origins of such contracts can be traced to countries with predominantly capitalist systems, which emphasize the freedom of individuals to structure their agreements based on the principle of the autonomy of will, encapsulated in the notion that a contract serves as the law between its parties. Consequently, these contracts were given Anglo-American names, reflecting their roots.

Given the practical realities and the evolving needs of the commercial environment, it became imperative to develop new legal concepts for such contracts. This ensured that the application of traditional contract rules did not pose a barrier to those engaged in commercial activities. [3]

The Algerian legislator's regulation of the leasing contract under Ordinance 96-09 on leasing contributes to driving economic development by facilitating the production of goods and services and enabling access to them under more favorable terms compared to traditional financing methods, while safeguarding the rights of all parties involved. It can also play a significant role in the current reconstruction phase that Algeria is undergoing, as leasing is one of the most successful and effective modern financing tools, particularly for small and medium-sized enterprises.[4]

When discussing the importance of leasing, it can be said that it is one of the most prominent investment forms conceived by economic and financial thought, and one of the most efficient in raising economic growth rates. This is due to its nature, ease of application, and its responsiveness to the financing needs of production, financing, and service companies. Leasing is especially seen as a good alternative when these companies are expanding their production and operational capacities, rather than resorting to bank loans, issuing new shares, or seeking new partners, which often come with their own challenges. Leasing provides 100% financing for the value of the capital assets to be acquired, something that is typically not available through other financing methods.

---

[2] **Hamai Thiziri and Ghanem Meriem**, Master's Thesis in Law, Business Law specialization, titled: "Options Available to the Financial Lessee in the Leasing Contract," dated June 23, 2016, p. 11.

[3] **Bakhit Issa**, article published titled: *"Nature of the Leasing Contract and Its Legal Limits - A Comparative Study"*, Mohamed Boudiaf University of M'sila, 2015, p. 30.

[4] **Ben Rebah Amal**, doctoral thesis in law titled: *"Leasing Contract as a Legal Mechanism for Financing"*, Mouloud Mammeri University of Tizi-Ouzou, 2015, p. 268.

Section2: Leasing Historical Overview

Small and Medium Enterprises (SMEs) and Small and Medium Industries (SMIs) play a vital role in economic development by enhancing competition, fostering innovation, and creating jobs. These entities, however, face numerous growth challenges, ranging from unfavorable macroeconomic environments to administrative barriers and bureaucracy. The most significant obstacle remains their limited access to financial services.

While investment needs for these smaller structures continue to grow, the available financing methods must keep pace. Financing needs have increased due to the drive for profitability and improved competitiveness in a highly competitive environment. Among the financing methods often used by investors to acquire equipment, tools, or furniture for professional use is leasing, also known as *credit-bail*, a financial technique that emerged in the United States in the 1950s.

In addition to other financing options such as capital increases and loans, leasing offers a tailored solution to the specific needs of SMEs and SMIs. It also provides advantages in terms of taxation, legal guarantees, and implementation timelines, thereby fostering the expansion of goods and services and, ultimately, spurring the much-anticipated growth of investment in Algeria.

Ordinance No. 96-09, dated January 10, 1996, serves as the foundational legal framework for leasing in Algeria. It establishes the legal parameters governing the relationship between the lessor and the lessee. The ordinance outlines the content of the leasing contract, the rights and obligations of each party, the classification of leasing based on specific criteria, and the resolution of contracts.

1-Regulatory Framework for Leasing:

- **Executive Decree No. 06-90 (February 20, 2006):** Defines the publicity requirements for leasing operations involving movable property.
- **Executive Decree No. 06-91 (February 20, 2006):** Specifies the publicity requirements for leasing operations involving real estate.
- **Regulation No. 96-06:** Establishes the procedures for forming leasing companies and the conditions for their accreditation.
- **Regulation No. 09-04 (2009):** Issued by the Bank of Algeria, sets the banking account plan and accounting rules applicable to banks.
- **Regulation No. 09-05 (2009):** Governs the preparation and publication of financial statements for banks and financial institutions.

2. Definition

Leasing combines investment and financing decisions. It is defined as a commercial and financial operation carried out by banks, financial institutions, or legally authorized leasing companies to finance economic operators for acquiring movable or immovable property under a lease agreement that may or may not include an option to purchase in favor of the lessee.

3. Types of Leasing

Leasing is considered "financial leasing" when the contract transfers to the lessee all rights, obligations, benefits, disadvantages, and risks associated with the

ownership of the leased asset. The contract is non-cancellable, and it guarantees the lessor the right to recover capital expenses and be remunerated for the invested funds.
On the other hand, leasing is referred to as "operating leasing" when there is no transfer of ownership, and it is simply a rental agreement.
Leasing operations can involve movable property, immovable property, business assets, or artisan establishments. Leasing is considered international when one of the parties to the contract is not a resident of Algeria.

4. Accounting for Leasing

The use of leasing is explained by the existence of market imperfections. These imperfections can be linked to the accounting treatment of leased assets. Indeed, a company that holds a leased asset is not the legal owner. Two questions arise:

- Should these assets appear on the company's balance sheet?
- Can the lease payments reduce the corporate income tax?

1. **Operating Lease**: The lessee does not record the leased assets on the balance[5] sheet. Logically, the lease payments are treated as an operating expense and are recorded as such in the company's income statement. Leasing payments thus reduce the pre-tax operating income, thereby lowering the corporate income tax liability. Hence, leasing constitutes an off-balance-sheet commitment for the company.
2. **Finance Lease**: It is possible to adjust the lease contract to reflect the company's accounts as if it had acquired the asset through a loan. To do so, the value of the asset is recorded in the company's consolidated balance sheet, and its liability is recorded for the amount used to finance the asset. Lease payments are no longer recorded as such but are divided into two parts: depreciation and finance costs, which are recorded in the income statement. This reduces the taxable base, but it results in an increase in the company's debt ratio.

According to IAS-IFRS standards, an economic analysis of each leasing contract is required[6]
If at least one of the following criteria is met, the lease is considered a finance lease: [7]

1. The contract provides for the transfer of ownership of the asset at the end of the lease term.
2. The contract provides for an option allowing the transfer of ownership of the asset at the end of the lease term, and the exercise price is such that there is a high probability (from the date the lease contract is signed) that the option will be exercised.
3. The duration of the lease is such that it covers most of the asset's useful life.
4. At the date of signing the lease contract, the present value of the minimum payments (rentals, exercise price of the purchase option, etc.) is close to or greater than the "fair value" of the leased asset**.**

It follows that lease transactions must now be accounted for either as a finance lease or as an operating lease.

---

[5] **Jonathan Berk, Peter DeMarzo,** Gunther Capelle-Blancard, Nicolas Couderc (2004): *Corporate Finance,* Pearson Edition.
[6] **Collasse Bernard (1989)**: *Financial Management of the Company,* PUF Edition, Paris, 1989.
[7] **Gervais Jean François (2004)**: *The Keys of Leasing*, Organisation Edition, Paris.

Due to its advantages and flexibility regarding eligibility criteria and amortization (between 5 and 7 years), leasing meets the needs of all businesses in creation, development, or competition. It allows for a wide range of leasing products and services in the fields of commercial real estate, provision of equipment, rolling stock, as well as various production equipment and materials.

5-The Leasing Market in Algeria

Leasing in Algeria emerged late compared to neighboring countries, Morocco in 1965 and Tunisia in 1985. This delay was explained by the conditions required by lessors on one hand and the economic environment on the other hand [8] . Currently, leasing is making progress in financing businesses and the national economy in general. The first banks practicing leasing in Algeria were Banque Al Baraka d'Algérie in 1990 and ASL (Algerian Saudi Leasing, owned by BEA and Dallah Al Baraka Group) [9].ASL aims to finance, through leasing, drilling equipment imported by economic operators residing or operating in Algeria. However, their activities were limited due to the ambiguity that prevailed at that time.

The particularity of this financing is that it was established without a specific legal framework. However, after the publication of Ordinance No. 96-09 of 1996, related to leasing, there was a gradual entry of financial institutions engaged in leasing, accompanied by a significant increase in economic operators requesting this new financing method.

The Algerian leasing market consists of 12 companies [10] divided into two distinct groups. On one hand, the financial institutions specializing in leasing: Maghreb Leasing Algérie (MLA), Arab Leasing Corporation (ALC), Ijar Leasing Algérie, El Djzair Ijar, Société Nationale de Leasing, Sofinance. On the other hand, banks or financial institutions with a leasing department: Société Générale Algérie, BNP Paribas, Natixis, Al Salam Bank, El Baraka, Housing Bank Algeria.

In general, the number of leasing companies in a country reflects the level of development of this sector. The level of dev With these benchmarks from the International Financial Institution, it can be observed that the Algerian leasing market falls into the first category, i.e., an emerging market. elopment of the leasing industry in a given country is also assessed by the penetration rate [11], which is the ratio of leasing volume to GDP. The level of development of the leasing market is defined (according to the International Finance Corporation) in relation to the leasing volume / GFCF ratio as follows:

- A ratio lower than 5% indicates that the leasing market is emerging.
- A ratio between 5-10% indicates an emerging market, and a ratio higher than 10% indicates a mature market.

---

[8] **Hideur Naceur (2002):** "*Le leasing en Algérie, Premières assises nationales du crédit-bail*."

[9] **Smaili N. (2012):** Pratique du crédit-bail : Analyse de la situation algérienne. Mémoire de magister. Université Mouloud MAMMERI de Tizi-Ouzou.

[10] According to the Governor of the Bank of Algeria.

[11] It is also equal to the ratio of leasing volume to the gross fixed capital formation (GFCF).

- With these benchmarks from the International Financial Institution, it can be observed that the Algerian leasing market falls into the first category, i.e., an emerging market.

At this stage, the leasing industry operates on a relatively small scale but exhibits strong growth and high profitability. It is also characterized by low competition and a limited number of lessors, with no significant product differentiation. Financial leasing dominates the market (in the Maghreb countries, 70% of lessors identify as financial lessors, while operational lessors account for only 24% of the tot. In addition, in these countries, movable property is the most common type of asset leased.

In Algeria, real estate leasing is practically nonexistent, with only a few contracts recorded at Al Baraka Bank. However, starting in 2009, with the Algerian government's intention to establish a genuine leasing industry, the Mortgage Refinancing Company (MRC) was reinstated to specialize in real estate leasing. Adding to this is the prevalence, at this nascent stage, of banks and bank subsidiaries specializing in the sector. This is partly due to the ease of access to financing; banks can rely on their deposit bases, while bank subsidiaries can count on their parent companies. In contrast, the limited presence of independent leasing companies is due to a lack of mobilized resources. These companies must seek long-term loans in the market, use conventional credit lines, or securitize their receivables to finance their leasing portfolios.

The average penetration rate in the Middle East and North Africa (MENA) region is approximately 3.6% (according to the International Finance Corporation's statistics). By comparison, the equivalent ratio is about 15% in Central Europe, 6% in high-income countries, and 5% in Latin America. Tunisia and Morocco are almost playing in the big leagues, where leasing has become a credible alternative to bank credit.

The sector has reached maturity in these two countries, with its contribution to gross fixed capital formation standing at 14.5% and 13.8%, respectively, in 2009, close to the European average of 15%. In Algeria, leasing accounted for 10% of bank financing in 2009 [12].The total outstanding amount, which was 320 million dinars in 2001, exceeded 32 billion dinars in 2010 and reached about 45 billion dinars in 2015. However, 2016 saw a 10% decline, with an outstanding amount of 40 billion dinars.

This decline can be attributed to a lack of communication about leasing products by various financial players. In terms of volume, leasing’s importance lies mainly in its growth rate, which averages over 25%, and in the large number of SMEs and SMIs. As for the market shares of leasing financing in Algeria, they are predominantly held by privately owned banks, accounting for 70%

[12] According to the Secretary-General of the Association of Banks and Financial Institutions (ABFI).

1-The sectors targeted by Algerian lessors are:

- Public works and construction equipment.
- Transportation equipment.
- Equipment related to the agricultural sector.
- Industrial, medical, printing, drilling equipment, etc.

All participants offer medium- and long-term financing, with interest rates capped at 7% by the Bank of Algeria.
The demand for leasing financing may come from:

- SMEs/SMIs, large companies, and liberal professions.

2-The Determinants and Advantages of Using Leasing:
30% of the surveyed SMEs-SMIs resort to leasing because it not only provides full financing but also stands out from other financing methods by allowing financial and fiscal optimization on two levels:
A gradual reduction in the burden of VAT and the deductibility of rents, which are considered as operating expenses and, therefore, deductible from the taxable income. This fiscal benefit becomes more significant when the leasing contract has a short duration (higher rents) and when the tenant company is profitable. Moreover, opting for leasing also enables dynamic management of equipment obsolescence.
Half of the SMEs-SMIs use leasing due to constraints imposed by banks (risk aversion); the remaining 20% opt for it because of the administrative burden of other financing methods.
Three objective factors justify the relevance of leasing in Algeria today:
The use of leasing allows companies to avoid cashflow difficulties. Additionally, it is considered a protection against inflation since the equipment used today is paid for with tomorrow's money. As inflation rises, rents remain unchanged [13].

1. The growth of SMEs-SMIs: more than 1,060,289 SMEs [14] are currently registered in Algeria.

3. The Problematic Access to Bank Financing
A recent study on the investment climate in Algeria conducted by the World Bank Group (*Investment Climate Assessment*) ranks the lack of access to financing as the primary constraint for SMEs. The Algerian banking sector today focuses more on the Corporate segment than on SMEs.

4. The Novelty of Leasing in the Market
Leasing remains relatively unknown among users; 60% of the 50 SMEs/SMIs surveyed at the 2009 Algiers Fair in our study stated they had never heard of this new financing method. It is a product with significant growth potential, as it is still in the early stages of its lifecycle.

5-Challenges Hindering the Development of Leasing in Algeria
Despite legislative, regulatory, and fiscal frameworks, several constraints persist that require legal attention:

- The lack of awareness about leasing among economic operators, with 60% of surveyed companies unaware of this financing method.

---

[13] **BOUYACOUB Ahmed**, *The Great Paradox of the Algerian Economy Exposed, Le Quotidien d'Oran*, October 7, 2008.
[14] Statistical Information Bulletin on SMEs in Algeria No. 31, November 2017 Edition.

- Difficulties in establishing legal and administrative documents in the name of the leasing company, particularly with certain administrations unfamiliar with this financing model due to the absence of relevant guidelines and instructions.
- Challenges in transferring civil liability from the owner to the lessee in cases of accidents or damages.
- Issues with registering license plates that prove the ownership of the leasing company.
- The absence of secondary markets for reselling repossessed assets and a single-product activity (standard leasing), which limits flexibility.
- The inclusion of the total lease payments in the calculation of turnover tax, whereas in traditional bank credit, only the interest is subject to such tax.
- Leasing is considered more expensive compared to other types of financing.

Conclusion

The development of leasing in Algeria has yet to achieve its rightful place in the country's financial market. This financing method, particularly suitable for small and medium enterprises (SMEs) that often do not meet the requirements for traditional financing, remains underutilized despite its numerous advantages over conventional bank loans. Currently, the leasing sector faces various challenges, such as the limited size of the Algerian market, tight liquidity, and a strong dependence on the broader economic situation.

Its development could be fostered by focusing on the following points:

- Specialization of leasing companies through appropriate structures and organizations to better understand the markets they operate in and the products they offer.
- Enhancing service quality and speeding up the processing of financing requests, which are key market expectations.
- Conducting information campaigns (seminars, communications, etc.) by both banks and public authorities to raise awareness about leasing among economic operators and to promote a leasing culture.
- Drawing inspiration from the experiences of other countries, such as Morocco and Tunisia.
- Facilitating access to reliable information for banks and leasing companies to better manage and reduce risks.
- Establishing a more favorable tax environment for leasing companies and businesses.

Developing this financial tool would enable the funding of numerous projects, including equipment renewal or upgrades, as well as the creation and expansion of production capacities, addressing the many investment opportunities available. Leasing is considered an essential complement to traditional bank loans and a promising financial engineering tool that deserves greater understanding, development, and promotion.

References

1. Bouyakoub, Ahmed (2008): *Le grand paradoxe de l'économie algérienne mis à nu*, Le quotidien d'Oran.
2. Collasse, Bernard (1989): *Gestion financière de l'entreprise*, Éditions PUF, Paris.
3. Garrido, Eric (2002): *Le crédit-bail, outil de financement structurel et d'ingénierie commerciale*, Tome 2, Éditions Revue Banque.
4. Gervais, Jean-François (2004): *Les clés du leasing*, Éditions Organisation, Paris.
5. Hideur, Naceur (2002): *Le leasing en Algérie, Premières assises nationales du crédit-bail.*
6. Maheu, Alain, & Maige, Christian (1998): *Pratique du crédit-bail mobilier, des solutions pour financer vos équipements*, Éditions d'Organisation