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# Investing the endowment properties to activate the religious tourism in Algeria - A legal perspective-

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## Abstract:

*This study aims to shed light on the legal mechanisms for investing endowment properties to activate religious tourism in Algeria, considering that religious tourism is a promising sector in Algeria, as it is full of many religious places and landmarks such as zawiyas, as well as ancient and new mosques such as the Great Mosque of Algiers, which must be Investing in it by transforming it into religious tourism hotspots par excellence at the national, regional and international levels, which contributes to achieving sustainable economic development. This is what prompted us to raise questions about the concept of religious tourism, the extent of its importance in achieving development, as well as the legal formulas approved for investing endowment properties to serve religious tourism in Algeria.*

*To answer this problem, we decided to divide the research plan into two axes: in the first axis we addressed the definition of religious tourism and demonstrated its importance and prospects in Algeria, while in the second axis we discussed the legal framework for investing in endowment properties to activate religious tourism in Algeria in light of the provisions of Law 91-10 and the Executive Decree. N°. 18-213, as well as Investment Law 22-18.*

***Benaichouche Omar***

## Introduction:

The Islamic Endowment Foundation is considered one of the most important pioneering institutions in achieving sustainable economic and social development, which has contributed significantly to building human civilization in Islamic societies, and Algeria, as a country in the Islamic world, is replete with an enormous wealth of endowment properties, including lands, real estate, buildings, and commercial stores, and housing, which can constitute an important resource for financing many economically viable projects to activate religious tourism in Algeria.

The Algerian legislator did Not specify endowment properties with a law regulating them for a period of approximately 27 years (from 1962 to 1989), however, he corrected the situation according to Article 49 of the 1989 Constitution, which stipulated that: "...endowment properties and the properties of charitable organizations are recognised..." (Algeria, 1989, Art. 49)

After the constitutional establishment of endowment properties was approved, It was natural for the first law to be issued, defining the legal system for this type of funds. Indeed, Law N°. 91-10, dated Shawwal 12, 1411 AH, corresponding to April 27, 1991, was issued relating to endowments, issued in the official journal dated May 8, 1991, N°. 21, to establish an integrated legal system that regulates the latter and restores the glory of this Islamic system.

It was amended pursuant to Law N°. 01-07, amending and supplementing Law N°. 91-10 relating to Endowments, and was subsequently amended again pursuant to Law N°. 02 amending and supplementing Law N°.91-10 relating to Endowments.

The issuance of Executive Decree N°. 18-213, specifying the conditions and methods for exploiting endowment real estate intended for the implementation of investment projects. Through the aforementioned legal texts, we seek the Algerian legislator's keenness to restore the endowment to its original position, and to play its active role in the Algerian economy, in preparation for the post-oil phase.

## The importance of studying:

The topic of legal mechanisms for investing in endowment properties to activate religious tourism is one of the most important topics in the field of specialized economic and legal studies, and is receiving increasing attention at the global, regional and national levels by researchers in the field of Islamic law, law and economics.

**Approach followed:**

We followed the descriptive approach, by collecting scientific material and data related to the subject of the study from various sources, then analyzing them appropriately, and drawing conclusions from them.

**Study problem:**

The problem of the study relates to the concept of religious tourism, and the extent of its importance in achieving sustainable economic development, and what are the approved legal formulas for investing in endowment properties to activate religious tourism in Algeria?

To answer the problem of the study, we followed the following plan:

- introduction

- The first axis: defining religious tourism, and explaining its importance and prospects in Algeria.

First: Defining religious tourism, and explaining its importance.

Second: The need for Algeria to invest in religious tourism.

Third: The most important facilities that must be provided to activate religious tourism in Algeria.

- The second axis: The legal framework for investing in endowment properties to activate religious tourism in Algeria.

First: Investing endowment properties in light of the provisions of Law N°. 91-10.

Second: Investing endowment properties in light of Executive Decree N°. 18-213.

Third: The incentive systems established for tourism investment, in light of Investment Law 22-18.

Conclusion: Include the most important results and recommendations.

## THE FIRST TOPIC: DEFINING RELIGIOUS TOURISM, AND EXPLAINING ITS IMPORTANCE AND PROSPECTS IN ALGERIA

Algeria is the largest African and Arab country, as it ranks tenth in the world in terms of area (2,381,741 square kilometers), after the secession of South Sudan from Sudan on July 9, 2011. However, a country the size of a continent, such as Algeria, is still betting on oil and fuel revenues to build Its national economy, although it possesses all the natural and human capabilities that allow it to make a qualitative leap and achieve sustainable economic development. Encouraging investment in Algeria has become one of the priorities of the government's program with the aim of diversifying the national economy, in preparation for the post-oil era, as its position -like other countries- is clear through successive investment laws since independence, including foreign investments that the world has known in the economic field, to promote national investment and achieve self-sufficiency.

The Algerian legislator has striven to provide security and legal stability for local and foreign investors, since the issuance of the first investment law in Algeria in 1963 until its last amendment in 2022, as the latter included a set of provisions and legal texts that grant guarantees to investors and motivate them to come, transfer their money and invest it in order to achieving comprehensive economic development.

Among the most promising sectors in Algeria are: agriculture, industry, and tourism of all kinds: natural, sports, religious... In this first axis, we highlight the definition of religious tourism, and show the extent of its importance in achieving economic development, as well as the most important basic facilities that must be provided to promote religious tourism in Algeria.

**First requirement:: Definition of religious tourism:**

There are several attempts to set an accurate definition of religious tourism, and below we review the most important of them:

- It is the tourism activity that is based mainly on people traveling from their region of residence to other regions, to carry out religious visits and trips, inside and outside the country, for a period of time (Maher, 2006, pp. 55-56).

- The continuous and regular influx of tourists from inside and outside the country, to explore and learn about the sacred religious monuments and their ancient history, and to learn about the spiritual values they represent for this religion or belief. (Abidat, n.d., p. 141)

From the above, religious tourism can be defined as: the organized and periodic movement of individuals and groups from one city to another, or from one country to another, to visit sacred religious places and monuments, for a religious and devotional purpose, according to the religion that the tourist believes.

**Second requirement: The importance of religious tourism in Algeria:**

Religious tourism in Algeria is a promising and strategic sector, given the richness of Algeria that allows it to attract many tourists from all over the world, especially the people of the African Sahel countries. Its importance can be summarized in the following elements:

a- Religious tourism helps increase hard currency reserves (foreign exchange), through the influx of foreign tourists to the religious sites that Algeria abounds in its north and south.

b- The option of activating religious tourism in Algeria: It contributes greatly to the development of infrastructure, such as building hotels, constructing highways, developing airports, and linking them with other means of transportation such as trains, trams, and other tourist structures and services, which allow tourists to reach their destination quickly and comfortably. .

c- Religious tourism in Algeria contributes to the revival of the field of traditional industries, by encouraging craftsmen to display their various products near the religious places intended by tourists.

d- Providing a large number of permanent and temporary job positions for unemployed youth, thus contributing to eliminating the scourge of unemployment.

E- Religious tourism contributes to enhancing cultural exchange between peoples, and embodies the dialogue of religions and civilizations on the ground, through the exchange of respect and tolerance.

**Third requirement: The most important tourist facilities and the arrangements that must be provided to serve religious tourism in Algeria:**

The basic facilities and infrastructure, and improving services, play an important role in attracting tourists from inside and outside the country. Therefore, it is necessary to establish tourism investment projects with international standards, near the religious monuments located throughout the territory of the People’s Democratic Republic of Algeria (58 states), and there must be a political will to support this trend, by drawing up a strategy in the medium and long term, and among the most important facilities and arrangements that must be available to revive religious tourism in Algeria:

- Strengthening basic facilities and raising the quality of services: To activate religious tourism in Algeria and attract tourists from inside and outside the country, it is necessary to establish hotels with international specifications, taking into account the architecture of each region, near religious monuments in Algeria, such as:

- TijaniyahZawiyat in the city of AinMadi in Laghouat, and the city of Gambar in WadiSouf.
- Al-Balqaidi-HebriaZawiyat in both Oran and Algiers.
- The Greatest Mosque of Algeria, in the city of Mohammadia (The greatestmosque in Africa and the third largest mosque in the world after the Two Holy Mosques).
- Keshoua Mosque in Algiers (Martyrs' Square).
- Emir Abdelkader Mosque in Constantine.
- Santa Cruz Church or Holy Cross in Oran.
- Saint Augustine Church in Annaba.
- Our Lady of Africa Church in Algiers.

- Providing air transport services by establishing airports or expanding existing domestic airports and qualifying them as international airports, to allow entry and exit of tourists in a short time, in addition to other means of transport such as: fast trains, metro, tramway, buses and modern and comfortable taxis.

- Encouraging traditional industries near religious monuments, to facilitate tourists purchasing gifts for their family members and friends, which contributes to the revival of commercial activity in those tourist destinations.

- Facilitating the procedures for obtaining an entry visa (e-visa) for tourists to enter Algeria, who go to religious tourist attractions, especially those located in the highlands, the south and the great south, to relieve pride in the aforementioned regions and promote religious and desert tourism.

- Providing offers and discounts on travel tickets (Algerian Airlines) for states rich in religious monuments in Algeria to encourage religious tourism and promote Algeria as a destination for religious tourism, in coordination with travel agencies at the national, regional and global levels.

## THE SECOND TOPIC :THE LEGAL FRAMEWORK FOR INVESTING IN ENDOWMENT PROPERTIES, TO ACTIVATE RELIGIOUS TOURISM IN ALGERIA:

It is not possible to initiate any investment in the absence of a legal system that defines the parameters of this process, accompanies local and foreign investors and guarantees their rights. Returning to the Algerian legal arsenal, we note that the Algerian legislator paid great attention to investing in endowment properties, and we discuss in detail the legal mechanisms for investing endowment properties to activate religious tourism as follows:

**First requirement:: Investing endowment properties in light of the provisions of Law 91-10:**

Endowments are divided according to their nature and purpose into two basic sections, which are endowments of a devotional nature and purpose, such as mosques and zawiyats, and the second section is endowments that can be invested and exploited, which in turn vary from housing, lands, commercial stores, and various movables.As for lands, they are divided into two parts:

**The first:**agricultural lands, or those intended for agriculture .

**The second:** Residential land or land that can be built for housing, which can be invested in the religious tourism sector.

Returning to the provisions of Law N°. 91/10 related to endowments, to search for legal mechanisms for investing in endowment lands that are inhabited or can be reconstructed, we find only one formula, which is leasing. Below is a statement of the legal controls for activating the investment formula through the following elements:

**1- The Algerian legislator's position on leasing endowment properties:**

The Algerian legislator approved the leasing of endowment properties, in accordance with the provisions of the legal texts in force, taking into account the provisions of Islamic Charéa (Algeria, 1991, Art. 42).

**2- How to rent endowment properties: There are two ways:**

**A - Leasing endowment properties through public auction:** The general rule is that endowment properties are subject to rent through public auction, and the lowest price is determined by the "similar rent," which is reached through experience that takes into account the necessity of inspection of the leased endowment property. The inspection is carried out by a representative of the Endowments Authority - aspecialist- and before determining the minimum price, the opinion of some competent authorities is sought, especially the State Properties Directorate, as it is the state's expert and has a qualified and specialized authority in real estate evaluations (Algeria, 1998, Art. 22).

The public auction is conducted under the supervision of the Superintendent of Religious Affairs and the Subul al-Khairat Council, on the basis of the model book of conditions determined by the Minister in charge of the Ministry, and the auction is announced in the national newspapers twenty (20) days before it is held. Without prejudice to the provisions of Article 23 above, endowment property may be leased when necessary, for four-fifths of the equivalent rent if it is burdened with debt or N° desire for it is registered, except for a value less than the equivalent rent, and it is returned to the equivalent rent whenever the opportunity is available for that, and the lease contract is then renewed (Algeria, 1998, Arts. 23-24).

**B- Renting by mutual consent:** This is done in two cases(Algeria, 1998, Art. 25):

- To spread knowledge, combat ignorance and illiteracy, and encourage scientific research.

- And the paths of good deeds

The Algerian legislator defined the areas of good deeds as follows (Algeria, 1991, Art. 5, para. 4):

-Preserving and protecting the mosque institution.

-Activating and encouraging citizens to invest in endowments and invest them in serving the public good.

- Rationalizing the payment of Zakat - collecting and disbursing it.

- Contributing to solving social problems, such as facilitating marriage for young people, caring for orphans, and helping needy and afflicted people.

- Fighting taboos, deviations, and social ills and their causes.

**3- The lease period for the public endowment property:**

The Algerian legislator decided that it is not permissible to lease endowment property for an unknown period, and stipulated that the duration of the lease contract be determined according to the nature and type of endowment property, while it did not specify the maximum duration of the lease that could be agreed upon in one or several periods similar to the designation of national properties, but it stipulated the issue Renewal of the lease contract, as the lease contract is renewed during the last three months of the lease term, and if this is not done, the provisions of the Algerian Civil Code appl (Algeria, 1998, Arts. 27-28)

**Second requirement: Investing endowment properties in light of Executive Decree N°. 18-213**

In the context of strengthening the legal arsenal related to the investment of endowment properties, Executive Decree N°. 18-213 was issued, specifying the terms and conditions of endowment properties directed to the implementation of investment projects, as Article 4 of it indicated:

> The process of exploiting and investing endowment properties to accomplish investment projects aimed at protecting, valuing, and developing endowment properties in accordance with the will of the donor, and in accordance with the objectives of Islamic Sharia in the field of endowments, and the applicable legislation and regulation (Algeria, 2018, Art. 4). The following is a statement of the most important conditions and methods for exploiting endowment properties:

**First section: Conditions for exploiting endowment properties intended for the implementation of investment projects:**

The aforementioned executive decree includes a set of conditions that can be summarized in the following elements:

a- The exploitation process takes place under an administrative contract between the Ministry of Religious Affairs and Endowments on the one hand, and the investor on the other hand (Algeria, 2018, Art. 5).

b- Endowment real estate investments can be used by every natural or legal person subject to the provisions of Algerian legislation (Algeria, 2018, Art. 6).

c- Endowment properties intended for investment are represented in the following:

-Unbuilt lands allocated to host investment projects (Algeria, 2018, Art. 7).

- Ready built properties, and built properties that need to be rehabilitated or expanded.

Endowment properties are exploited for a minimum period of 15 years and a maximum of 30 years, subject to renewal (Algeria, 2018, Art. 8).

d- Endowment real estate is exploited in exchange for rent dues during the completion stage, and a percentage of the turnover ranging from 1% to 8% is paid during the exploitation stage to the account of the Endowment treasury (Algeria, 2018, Art. 10).

**Second section: How to exploit endowment real estate, intended for the implementation of investment projects:**

The Ministry of Religious Affairs and Endowments, represented by its Minister, is responsible for undertaking procedures related to the exploitation of endowment properties intended for the implementation of investment projects, by submitting offers that open the door to competition among investors, to choose the best project for the benefit of the endowment institution as a general rule or by mutual consent. It can also be granted by land for the benefit of young people who have academic and professional qualifications, suitable for small, economically viable investment projects (Algeria, 2018, Arts. 11, 12, 21).

The Algerian legislator approved the establishment of state committees called: the Committee for Opening and Evaluating Offers Related to the Exploitation of Endowment Properties, directed to the completion of investment projects.

The composition of the state committee is as follows (Algeria, 2018, Art. 13):

a- State directors in charge of the following sectors:

- Religious affairs and endowments.
- Industry and mines.
- State property.
- Construction and architecture.
- the culture
- *the environment.*

b - The head of the municipality in whose territory the project is located.

Note: The committee can seek the assistance of any person who can assist it in its work, given his scientific competencies.

However, the state committees' commencement of their work depends on the date of issuance of the joint ministerial decision (Algeria, 2018, Art. 16).

**Third requirement: The incentive systems established for investment in tourism, in Investment Law 22-18:**

The Algerian legislator, through the new Investment Law of 2022, in Chapter Four entitled "Incentive Systems and Eligible Conditions for Benefiting from Benefits," approved several new incentives for the benefit of investors, to attract the largest possible number of internal and external investments, and divided them into three systems: the sector system, the region system, and structured investment system.

We detail it as follows:

**First section: Incentives for the sector system:**

These are stipulated incentives for investments directed to priority sectors, including the services and tourism sectors (Algeria, 2022a, Art. 26) -religious tourism- and are as follows:

**During the achievement (completion) period:**

Owners of investment projects benefit at this stage from not paying (Algeria, 2022a, Art. 27):

-Customs rights and fees on the added value of imported collectibles, which are directly involved in the completion of the investment project.

- The right to transfer ownership in exchange for compensation, and the real estate advertising fee, which is carried out within the framework of the investment project.

-Registration rights related to founding contracts.

-Registration rights and fees on real estate advertising, and franchise rights, directed to the completion of the investment project.

- The real estate fee on real estate ownership, which is part of the investment framework for a period of ten years, starting from the date of acquisition.

**During the exploitation phase:**

Owners of investment projects benefit at this stage from not paying (Algeria, 2022a, Art. 27):

- Tax on corporate profits, and exemption from fees on professional activity, for a period ranging from three to five years, starting from the date of commencement of exploitation.

**Second section: Incentives for the region system:**

These are incentives scheduled for the benefit of investments directed to the states of the High Plateaus, the South, and the Greater South, as these regions are characterized by difficult natural and climatic conditions compared to the North, and it should be noted that these areas are full of a large number of mosques and zawiyats, which can receive investments to promote religious tourism. These incentives are as follows (Algeria, 2022a, Art. 29):

**During the achievement (completion) period:**

-The same benefits stipulated in Article 27 of Law No. 22-18 mentioned above.

**During the period of exploitation:**

- The same benefits stipulated in Article 27 of Law No. 22-18 mentioned above, with the extension of the exemption period for a period ranging from five to ten years.

**Third section: Incentives for the structured investment system:**

Structured investments are those investments with high economic feasibility, which allow the creation and investment of wealth, and allow the opening of a significant number of job positions for young people, which would also contribute to creating an economic space, and also contribute to raising the attractiveness of the region and advancing economic development (Algeria, 2022b, Art. 15).

It is worth noting that the investments aimed at activating religious tourism in mosques, corners and churches located in various parts of the country can fall within the framework of structured investments, allowing their owners to benefit from these established advantages, and these incentives are as follows(Algeria, 2022a, Art. 31):

**During the achievement (completion) period:**

-The same benefits stipulated in Article 27 of Law No. 22-18 mentioned above.

**During the project exploitation period:**

- The same benefits stipulated in Art. 27 of Law No. 22-18, with the extension of the exemption period for a period ranging from 5 to 10 years.

Structured investments can also benefit from the accompaniment of government agencies, through partial or total contribution to the preparation work and basic facilities necessary for their implementation on the ground, after the government's approval of the agreement concluded between the investor and the Algerian Investment Agency(Algeria, 2022a, Art. 31).

**Conclusion:**

With Allah's help and success, we have completed this article entitled Investing the endowment properties to activate the religious tourism in Algeria -

a legal perspective-, and the following is a statement of the most important results and recommendations that this study concluded:

**First, the results:**

1- Algeria is replete with significant endowment properties, whose wealth must be exploited, invested and developed, to contribute to the process of sustainable economic development.

2- Methods for investing endowment properties under Law No. 91/10, relating to amended and supplemented endowments, have one formula, which is rent, and it is not sufficient, as other formulas must be included.

3- The Algerian legislator approved, through the new Investment Law of 2022, in Chapter Four, entitled "Incentive Systems and Eligible Conditions for Benefiting from Benefits," several new incentives for the benefit of investors in the religious tourism sector.

4-Algeria has all the capabilities to be a strategic pole in the field of religious tourism, and it must benefit from the experiences of leading countries in this field, such as the Kingdom of Saudi Arabia.

5- Religious tourism in Algeria is a promising sector that helps raise the revenues of the national economy outside the fuel sector.

6- Religious tourism contributes significantly to promoting dialogue of religions and civilizations, and rejecting violence and hate speech, as they are among the most important topics that are receiving increasing attention on the national, regional and international scene.

7- Activating religious tourism in Algeria requires the combined efforts of the state, local groups, economic operators, and civil society.

**Second: Recommendations:**

1- We propose to the legislative authority to strengthen the legal and legislative system with more effective laws and legislation, for the proper management of endowment properties, providing mechanisms for their protection, and granting the necessary incentives and facilities to practitioners of the religious tourism sector.

2- Spreading tourism awareness among citizens, through all means of visual, audio and written communication, as well as harnessing the media to introduce and publicize the religious monuments that our country abounds with to attract tourists.

3- Conduct an annual census of the number of tourists to prepare and evaluate tourism plans on studied scientific foundations.

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