

Excluding allocation of economic real estate for the realization of investment projects in the Light of the Law No. 23-17

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Abstract:

Economic real estate is a crucial element for any investment; it is linked to the implementation of investment policies in countries through specific laws, including real estate ownership laws, which regulate the conditions and methods for utilizing real estate. This is outlined in the provisions of Law No. 23-17, which sets the conditions and methods for granting state-owned economic real estate intended for investment projects.

Given the novelty and flexibility of this law, the study aimed to explore the concept of economic real estate, its importance, the real estate that falls within its scope, and some exceptions applied to it, such as allocation. The study focused on defining the meaning of allocation and some of its regulations, concluding with a presentation of some results and suggestions.

Keywords: : Economic Real Estate, Surplus Properties, Allocation, Investment, State-Owned Private Properties.

Introduction:

Real estate ownership, in its various forms, contributes to the comprehensive development of countries, and the organization and direction of real estate investments in their various forms and areas—industrial, agricultural, urban, residential—are crucial due to the significance of real estate in the investment field. With Algeria entering a market economy, which necessitates investments, it is essential to have real estate available; without it, there would be no investments or investors, whether domestic or foreign. The quality of investment in developing countries has evolved through the participation of foreign capital alongside national capital.

On this basis, legislation has rapidly been enacted to attract foreign capital, leveraging these investments to establish new industries, reclaim agricultural lands, and undertake housing and tourism projects. This is referred to as investment in industrial real estate, agricultural real estate, and tourism real estate, respectively. Investing in these types of real estate is one of the primary engines of development, provided there is a suitable environment or climate within its legislative framework and its economic, social, and political characteristics. This means reducing the obstacles to investing in these properties, and what concerns us in this study is economic real estate.

Discussing economic real estate requires understanding its reality by addressing the legal texts related to it and the entities responsible for managing it. Then, outlining the expected horizons from providing it by defining the policy adopted by the state and the results thereof, and the extent to which economic real estate, notably, contributes to establishing several projects for setting up small and medium enterprises that support the industry, the national economy, and create jobs with the aim of eliminating or reducing imports on the one hand and encouraging exports abroad on the other.

The state's interest in economic real estate, as a mechanism for attracting investment since the late last century, is evident following the political and economic transformations that the country has undergone, starting from the 1989 constitution¹, which gradually began to abandon the socialist system. Algeria witnessed a series of laws in the early 1990s, through the Real Estate Guidance Law No. 90-25 (amended and supplemented)², leading up to the 2020 constitution³, where the state initiated measures that contributed to issuing several legal texts in line with the new economic system and entities capable of implementing the related decisions.

Therefore, the Algerian state has adopted a precise policy to provide economic real estate, evidenced by the enactment of Law No. 23-17⁴, which defines the conditions and methods for granting state-owned economic real estate for the purpose of implementing investment projects, aiming to attract both natural and legal, domestic or foreign investors⁵. However, it exempts some properties, including those not designated or in the process of being designated for economic use⁶.

Based on the foregoing, the following problem can be posed: What is meant by allocation, as one of the exceptions to economic real estate? This main problem branches into subsidiary issues:

- The content and importance of economic real estate?
- Explanation of the allocation mechanism and its fields?

To answer this problem, several scientific approaches were relied upon, starting with the descriptive approach when discussing the concept of economic real estate and allocation, and the analytical approach through analyzing some legal articles, as well as when discussing systems similar to allocation. The deductive method was also used to derive the most important results and recommendations obtained from this study.

According to a methodological plan, it was divided into two main sections; the first section served as the conceptual framework, through which the economic real estate and its

¹ Presidential Decree No. 89-18 dated 22 Rajab 1409 corresponding to February 28, 1989, concerning the publication of the text of the constitution amendment approved in the referendum of February 23, 1989, in the Official Gazette of the People's Democratic Republic of Algeria (Issue No. 09, issued on March 1, 1989).

² Law No. 90-25 dated the first of Jumada al-Awwal 1411, corresponding to November 18, 1990, concerning the amended and supplemented Real Estate Orientation, (Official Gazette, Issue No. 36, issued on November 18, 1990). Amended and supplemented by Order No. 95-26 dated the 30th of Rabi' al-awwal 1416, corresponding to September 25, 1995, (Official Gazette, Issue No. 55, issued on September 27, 1995).

³ Presidential Decree No. 20-442 dated 15th Jumada al-Awwal 1442, corresponding to December 30, 2020, concerning the issuance of the constitutional amendment approved in the referendum of November 1, 2020, (Official Gazette, Issue No. 82, published on December 30, 2020).

⁴ Law No. 23-17 dated the first of Jumada al-Awwal 1445, corresponding to November 15, 2023, defines the conditions and methods for granting economic real estate owned by the state for the purpose of implementing investment projects, (Official Gazette, Issue No. 73, published on November 16, 2023).

⁵ Article 12 of Law No. 23-17 defines the conditions and methods for granting economic real estate owned by the state for the purpose of implementing investment projects.

⁶ Article 6 of Law No. 23-17 defines the conditions and methods for granting economic real estate owned by the state for the purpose of implementing investment projects.

importance are explained, and allocation was addressed in the second section, starting with its definition, systems similar to it, and its characteristics.

First Axis: The Concept of Economic Real Estate:

. Given the specificity, nature, and even the novelty of the term "economic real estate," the study necessitates an introduction to the concept of economic real estate and its importance, followed by its areas and the exceptions applicable to it.

Firstly: Definition of Economic Real Estate and Its Importance

The study requires defining economic real estate, investment, its justifications, and its importance, which will be addressed in two elements:

1-Definition of Economic Real Estate:

Jurisprudentially, economic real estate is defined as "a part of the general real estate pool, which constitutes a reserve directed to meet the needs of investors, whether domestic or foreign"⁷. Legally⁸, the Algerian legislator defines it as "any real estate property owned by the state's private properties and/or any other private property acquired by the Algerian Agency for Investment Promotion for the benefit of the state, capable of hosting an investment project within the meaning of the investment-related law"⁹. Economic real estate includes:

- **Developed real estate:** Any real estate property owned by the state's private properties equipped with roads and various networks necessary for its use.

- **Remaining real estate assets:** Real estate properties available belonging to localized public institutions¹⁰.

- **Surplus real estate assets:** Real estate properties not necessary for the activity of the public economic institution, especially:

- ✓ Real estate properties not utilized or not allocated for any purpose at the time of this law's publication.
- ✓ Real estate properties whose use does not match the social purpose of the institution.
- ✓ Real estate properties that are independent or separable from broader real estate complexes owned by public institutions or the state and are not necessary for their activities.
- ✓ Real estate properties whose purpose has been changed by urban planning tools and no longer fall within the main activity of the public institution.
- ✓ Real estate properties offered in the market by the public institution, and furthermore, considered surplus real estate assets, real estate properties located within industrial zones that are properties of the promoting authority available at the time of this law's publication, and which have been reintegrated into the state's private properties, subject to the provisions of this law.

1. Definition of Investment:

⁷ Mahfoud Mouhoubi, "The Status of Real Estate from an Investment Perspective," a thesis submitted for the degree of Master of Legal Sciences, Faculty of Law and Political Science, Department of Law, University M'hamed Bougara, Boumerdès, 2009, p. 6.

⁸ It is generally understood that the legislator does not define terms, as defining is the function of jurisprudence, and adjudication is the task of the judiciary. However, the Algerian legislator, as is known, often defines terms, especially some modern terms such as "investment," "electronic certification," "electronic signature," similar to some legislations.

⁹ Article 4/1 of Law No. 23-17 defines the conditions and methods for granting economic real estate owned by the state for the purpose of implementing investment projects.

¹⁰ Perhaps what is meant is "local"; could it be a typographical error?

Investment has two complementary aspects. Fundamentally, it means the capital formation process intended for acquiring or forming an asset for future benefit. Economists define investment as "the effort aimed at adding to the capital assets." Alternatively, "investment refers to the process of using these assets to obtain the intended benefit," as some authors define, where one states, "the term investment is used to mean the purchase – or acquisition – of any assets expected to yield gains in the future".¹¹

2. Justifications for Utilizing Economic Real Estate:

The justifications for investing in economic real estate vary and are numerous, notably due to the vast and expansive territory of Algeria, especially its border shadow zones and some of its fertile regions. With a large area of land that ensures sustainable economic development and security in achieving development, the government has entrusted the national task of regulating economic real estate to a public institution with an industrial and commercial nature named: The National Agency for Mediation and Real Estate Regulation. This is defined by Executive Decree No. 07-119, which includes the establishment of the National Agency for Mediation and Real Estate Regulation and its statute¹². Meanwhile, at the local level, this responsibility is taken care of by the Committee for Assistance in Site Selection and Investment Promotion and Real Estate Regulation, whose tasks and operations are defined by Executive Decree No. 07-120, which organizes the Committee for Assistance in Site Selection, Investment Promotion and Real Estate Regulation, and its composition and operation¹³.

Secondly: The Importance of Economic Real Estate in Attracting Investment

The presence of real estate in investments is a fundamental factor as it provides sufficient guarantees for investors, whether domestic or foreign, to undertake their projects and risk their capital. This leads to creating added value for the national economic growth and enables investors to benefit from the mobility of transferring their capitals back to their original countries. Encouraging investment by providing real estate vessels leads to the expansion of their size and areas. However, this requires flexibility in the real estate ownership law, as it grants the owner the maximum possible privileges to obtain ownership¹⁴.

Real estate trading ranks second in the investment field after securities and real estate projects are among the most widespread investment tools due to the diversity of their activities in industrial, agricultural, tourism, and residential sectors. An investor in the real estate sector achieves a reasonable return, providing a significant degree of security and suitability. Investors can choose projects that suit their preferences, manage their assets themselves, or delegate management to others on their behalf. Despite potential declines in real estate value, it still represents a safe haven for investment and the main outlet for investors, based on the age-old wisdom: "Real estate may get sick but never dies."

Real estate investments are often seen as a beneficial way to improve one's financial situation, requiring constant and ongoing investment support, a necessity imposed on Algeria to accomplish its investment project¹⁵. Practical reality confirms that real estate issues, access

¹¹ Sayed El-Hawary, *Investment and Financing*, Ain Shams Library, without further details, p. 44.

¹² Executive Decree No. 07-119, dated 5th Rabi' al-Awwal 1428 corresponding to April 23, 2007, includes the establishment of the National Agency for Mediation and Real Estate Regulation, and its statutes. (Official Journal, Issue No. 27, published on April 25, 2007).

¹³ Executive Decree No. 07-120, dated 5th Rabi' al-Awwal 1428 corresponding to April 23, 2007, includes the organization of the Committee for Assistance in Site Selection, Investment Promotion, and Real Estate Regulation, its composition, and operation. (Official Journal, Issue No. 27, published on April 25, 2007).

¹⁴ Qadi Si Taher, "Economic Real Estate as an Obstacle to Encouraging Investment in Algeria," Arab Democratic Center, Department of Economic Studies, November 17, 2016, visited on Thursday, November 30, 2023, at 11:43 AM.

¹⁵ Ibid.

to it, and ownership settlement are among the most significant challenges at the investment level in Algeria, becoming a source of endless speculation and bargaining.

On this basis, in recent years, speculative and brokerage networks, commonly referred to as "real estate mafia," have emerged, taking on cancerous forms. They exploit legal loopholes, turning them into a source of quick wealth, causing significant damage to the economy and hindering development projects¹⁶. Within this context, Algeria has initiated various policies to develop and promote investment through economic real estate by organizing and attempting to provide suitable and prepared real estate sites to meet the real estate needs of all public and private operators, whether domestic or foreign, to materialize their investment projects¹⁷.

This can only be achieved in the presence of a targeted and precise real estate investment policy based on a set of legislative and regulatory measures, and mechanisms aimed at rational exploitation of real estate to contribute to regulating the real estate market, reducing speculation, and facilitating access to real estate, all in the spirit of transparency and equal opportunity principles, keeping in mind the principles of security and real estate justice, and the role of real estate as a fundamental mechanism for achieving development in its various forms¹⁸.

Thirdly: The Scope of Economic Real Estate and the Exceptions to It

1. The Scope of Economic Real Estate:

The Algerian legislator has limited economic real estate to properties owned by the state's private properties, consisting of:

- Land prepared within industrial zones and activity areas,
- Land prepared within the perimeters of new cities,
- Land prepared for tourism expansion areas and tourist sites,
- Land prepared for technology parks,
- Remaining real estate assets belonging to localized public institutions,
- Surplus real estate assets belonging to public economic institutions,
- Land designated for commercial promotion,
- Other prepared lands belonging to the state's private properties¹⁹.

2. Properties Within the Scope of Economic Real Estate:

Due to the specificity and legal nature of certain properties, the Algerian legislator has excluded them from the scope of this law's provisions. These categories of lands include:

- Agricultural lands with an agricultural destination belonging to the state's private properties,
- Lands located within mining areas,
- Lands located within areas for the exploration and exploitation of hydrocarbons and the protection of electrical and gas facilities,

¹⁶ Mahboub Ben Hamouda, Ismail Ben Qana, "The Real Estate Crisis in Algeria and Its Role in Developing Foreign Investment," *Al-Bahith Journal*, Qasdi Merbah, Ouargla, Volume 5, Issue 5, dated June 1, 2007, p. 61.

¹⁷ Hamza Fassi, "The Legal Regulation of the Exploitation of Industrial Real Estate in the Investment Process," a thesis for completing the requirements for obtaining a Master's degree, Faculty of Law and Political Science, University of Benyoucef Benkhedda, Algiers, 2005, p. 2.

¹⁸ Mouna Maqlati, "The Legal System of Investment Real Estate," a printed document presented to second-year Master LMD students; specialization: Business Law, Faculty of Law and Political Science, Department of Legal Sciences, University of May 8, 1945, Guelma, 2018/2019, p. 12.

¹⁹ Article 2 of Law No. 23-17 defines the conditions and methods for granting economic real estate owned by the state for the purpose of implementing investment projects.

- Lands belonging to the state's private properties designated for accommodating activity areas for aquaculture,
- Lands located within the perimeters of archaeological sites and historical landmarks,
- Lands designated for real estate promotion benefiting from state aid,
- Lands belonging to the state's private properties designated for public investment projects²⁰.

From the above, it is clear that economic real estate designated and directed for investment forms part of the general real estate pool, constituting a reserve aimed at meeting the needs of investors, whether domestic or foreign. However, the majority of available real estate reserves consist of private properties, whether belonging to the state or individuals.

After discussing the economic real estate and its scope, as well as its importance, the study requires an explanation of allocation as one of the properties not included within the economic real estate areas, which will be addressed in the second axis of this study.

Second Axis: The Concept of Allocation

The public interest necessitates state intervention, whereby the competent official acts to allocate a real estate vessel for projects with social dimensions. Thus, the study requires elucidating the concept of allocation, starting with its definition and similar systems, which will be discussed first, followed by addressing the characteristics of allocation secondly.

Firstly: Introduction to Allocation

Some public services resort to the intervention of the competent authority in the state to meet these services from the public treasury, or what is currently known as state ownership²¹. What concerns us here is the definition of allocation, as well as similar systems, through two elements:

1. Definition of Allocation:

The study does not address the allocation regulated by the provisions of Order No. 75-58, which includes the amended and supplemented Civil Law²², nor does it intend real estate by allocation²³. Instead, allocation as defined by the Algerian legislator is: "Placing a property from the state's private properties or a public person at the disposal of a ministerial department, a public facility, or a public body or service affiliated with it to ensure the performance of a public service assigned to it"²⁴ including properties owned by public

²⁰ Article 3 of Law No. 23-17 defines the conditions and methods for granting economic real estate owned by the state for the purpose of implementing investment projects.

²¹ "There are three types of ownership in Islam: private ownership, governmental ownership, and public ownership. The Sultan does not own what is public, but he owns what is governmental and disposes of it as individuals do with their private properties, acting on their behalf." Refiq Younis Al-Masri, article titled: "Irsad: Does it Differ from Waqf?", Islamic Economics Research Center, Abdulaziz University, Wednesday, 1/8/1425 corresponding to September 15, 2004, p. 03.

²² Articles from 937 to 947 of Order No. 75-58 dated 20 Ramadan 1395 corresponding to September 26, 1975, amended and supplemented including the Civil Law, (Official Journal, Issue No. 78, issued on September 30, 1975). Amended and supplemented by Law No. 88-14 dated 16 Ramadan 1408 corresponding to May 3, 1988 (Official Journal Issue No. 18, issued on May 4, 1988). Amended and supplemented by Law No. 05-10 dated 13 Jumada al-Awwal 1426 corresponding to June 20, 2005 (Official Journal, Issue No. 44, issued on June 26, 2005). Amended and supplemented by Law No. 07-05 dated 25 Rabi' al-Thani 1428 corresponding to May 13, 2007 (Official Journal, Issue No. 31, issued on May 13, 2007).

²³ As stipulated in Article 683/2 of Order No. 75-58 including the above-mentioned amended and supplemented Civil Law.

²⁴ Article 82 of Law No. 90-30 dated 19 Jumada al-Awwal 1411 corresponding to December 1, 1990, including the National Property Law (Official Journal, Issue No. 52, issued on December 2, 1990), amended and

communities. However, properties allocated for use can be subject to allocation, while properties available for custody, liquidation, or judicial purposes cannot be subject to allocation²⁵.

From the above, a definition of allocation can be proposed: Allocation refers to a legal action taken by the administration to transfer the ownership of properties for the benefit of institutions and bodies affiliated with the state to achieve the public interest of individuals. Allocation can be temporary or permanent.

2. Systems Similar to Allocation:

The systems that may resemble allocation range between Irsad (endowment), Hawz (possession), Iqta' (fiefdom), and nationalization, addressed in the following order:

A. Irsad: "An action by the ruler in the lands of the Muslims, intending to allocate them for some expenditures of the public treasury." It is also defined as "endowing something from the Muslim public treasury by order of the Sultan (ruler) to be spent on a public interest like a school, hospital, or mosque..."²⁶. It can also be defined as: "An endowment of something from the Muslim public treasury by the order of the Sultan (ruler) for its revenue to be spent on a public interest, such as a school, hospital, or mosque..."²⁷. The ruler does not own the lands of the public treasury, hence does not have the authority to dispose of them. However, he can allocate some of their revenues for spending on religious scholars or mosques²⁸...

B. Iqta': "Lands given by the ruler to some people to cultivate or benefit from in return for a payment they make, or to revive them on the condition that what is imposed on them remains the property of the state"²⁹

C. Hawz: "Lands owned by some individuals who were unable to exploit them, so the government took control of them to exploit them and collect taxes, hence they cannot be endowed since they still belong to their owners"³⁰

D. Nationalization: Defined by jurist Sanhuri as "a restriction on the right of ownership where the state forcibly divests a person's property, which reverts to state ownership in exchange for compensation paid to the owner, usually pertaining to the ownership of a private project as a means of production, thus transferring the project from private to public

supplemented by Law No. 08-14 dated 17 Rajab 1429 AH corresponding to July 20, 2008 (Official Journal, Issue No. 44, issued on August 3, 2008).

²⁵ Al-Arabi Sahraoui, "State Property Management in Algeria," a thesis for completing a Master's degree in Law, Faculty of Law and Political Sciences, Kasdi Merbah University, Ouargla, discussed on June 1, 2014, p. 49.

²⁶ Khaled bin Ali bin Mohammed Al-Musheeqah, "The Comprehensive Guide to the Rulings of Waqf, Gifts, and Wills," Vol. 03, 1st Edition, Ministry of Awqaf and Islamic Affairs, Qatar, 1434 AH / 2013 AD, p. 208. See also: Abdul Moneim Zein El-Din, "Controls of Endowed Property: A Comparative Jurisprudential and Applied Study," 1st Edition, Universal Academic Library, Dar Al-Nawader, Syria, 1433 AH / 2012 AD, p. 263.

²⁷ Said Sabri Akrama, "Islamic Waqf between Theory and Application," 1st Edition, Dar Al-Nafae for Publishing and Distribution, Jordan, 1428 AH / 2007 AD, p. 124.

²⁸ Mohammed Abu Zahra, "Lectures on Waqf," (no publisher, no edition), Ali Mekheimer Press, Arab League Institute of Higher Arab Studies, (no publisher, no edition), 1959, pp. 129-130.

²⁹ Mohammed Abu Zahra, op. cit, p. 132.

³⁰ Wahba Zuhaili, "Islamic Jurisprudence and Its Proofs," (Comprehensive for Sharia Proofs, Doctrinal Opinions, and Key Jurisprudential Theories, Verification of Prophetic Hadiths and Their Derivation), Vol. 08, 2nd Edition, Dar Al-Fikr for Printing, Distribution, and Publishing, Damascus, 1985, p. 167. See also: Khair El-Din Ben Meshrenn, "The Waqf System in Algerian Law," a thesis for obtaining a Master's degree in Local Administration Law, Faculty of Law and Political Sciences, Abi Bekr Belkaid University, Tlemcen, 2011-2012, p. 12.

ownership"³¹. In this sense, it differs from some similar systems like expropriation for public benefit, confiscation, seizure, guardianship³².

Therefore, among the aforementioned systems - Irsad, Iqta', Hawz, nationalization - the description or closest legal concept to allocation is Irsad³³.

Secondly: Characteristics of Allocation

Given the importance and practical value of allocation, and to distinguish it from other transactions, the study necessitates a discussion on the characteristics of allocation, which include gratuitousness, irrevocability, and its framing within the public benefit. These aspects are addressed sequentially as follows

1. Gratuitousness of Allocation:

Allocation is gratuitous when the process involves property owned by public communities for the service of their specific interests, meaning that if the allocation is internal, it can also be free. This is because endowment lands are gratuitous, or nearly so, as will be explained through a series of legal texts, especially the Waqf Law No. 91-10³⁴, amended and supplemented, and Executive Decree No. 98-381, which defines the conditions for managing, operating, and protecting waqf properties and the methods thereof³⁵; despite determining the commercial value of the allocated property, which is proven by a delivery receipt, noting that it is one of the documents constituting the administrative contract.

2. Irrevocability of Allocation:

The process of allocating a piece of land belonging to state properties for integration into public endowments goes through several procedures, one of the most important of which is allocation through the selection of a plot of land until the transfer of ownership. This begins with the allocation request, where the state's real estate properties are allocated by an administrative decision³⁶, either temporarily or permanently³⁷. However, allocations for mosques or religious projects are final decisions.

Allocation is temporary when it involves a property temporarily endowment for being beneficial to the interest benefiting from the allocation without the possibility of its

³¹ Abdel Razzaq Ahmed El-Sanhuri, "The Mediator in Explaining the Civil Law, Property Rights," Vol. 08, Dar Al-Nahda Al-Arabia, Egypt, p. 626.

³² Mohammed Laachach, "The Legal Protection of Private Real Estate Ownership in Algeria," a dissertation for the degree of Doctor of Science in Law, Faculty of Law and Political Sciences, Mouloud Maameri University, Tizi Ouzou, defense date: 27/01/2016, from p. 23 to p. 32.

³³ Some Hanafi and Shafi'i jurists have decided that Irsad shares some of the rulings of Waqf in that the ruler is not permitted to change this allocation. Maiz Yasmina Haram Abu Omar, "The Public Waqf," submitted for a Master's degree in Law, specialization in Private Law, Faculty of Law, Ben Aknoun, University of Algiers, the academic year: 2010/2011, p. 14. See also: Khaled bin Ali Al-Musheeqah, "Contemporary Issues in Waqf," Fahd National Library, Riyadh, 1433 AH / 2012 AD, pp. 77-78.

³⁴ Article 43 of Law No. 91-10 dated 12 Shawwal 1411 corresponding to April 27, 1991, concerning the Waqf Law, (Official Journal, Issue No. 21, published on May 8, 1991). Amended and supplemented by Law No. 01-07 dated 28 Safar 1422 corresponding to May 22, 2001, (Official Journal, Issue No. 29 published on May 23, 2001). Amended and supplemented by Law No. 02-10 dated 10 Shawwal 1423 corresponding to December 14, 2002 (Official Journal, Issue No. 83, published on December 15, 2002).

³⁵ Articles 03 and 04 of Executive Decree No. 98-381 dated 12 Sha'ban 1419 corresponding to December 1, 1998, define the conditions for the management, operation, and protection of Waqf properties and the methods thereof (Official Journal, Issue No. 90, published on December 2, 1998).

³⁶ Article 84 of Law No. 90-30 concerning the amended and supplemented National Property Law.

³⁷ Article 3/1 of Executive Decree No. 91-454 dated 16 Jumada Al-Awwal 1412 corresponding to November 23, 1991, defines the conditions for the management, operation, and regulation of the methods for state-owned properties, (Official Journal, Issue No. 60, published on November 24, 1991). Amended and supplemented by Executive Decree No. 93-303 dated 24 Jumada Al-Thani 1414 corresponding to December 8, 1993 (Official Journal, Issue No. 82, published on December 12, 1993).

cancellation being considered. This temporary allocation is for a maximum period of 5 years, and if it exceeds this period, it becomes permanent, and thus its benefit becomes established. Conversely, the property reverts to its original state before allocation³⁸; that is, the cancellation of the contract through which the property was allocated, when the property entirely stops serving the purpose of the ministerial department, public body, or service it was allocated for. Cancellation of allocation may also result from non-use of the property for an extended period.

3. Allocation for Public Benefit:

This criterion is explicitly contained in Article 12, as amended, of the aforementioned Law 30-90, amended and supplemented, which states: "The national public properties consist of movable and immovable rights and properties that are used by everyone, placed at the disposal of the public user, either directly or through a public service, provided that in this case, it is absolutely or essentially classified according to its nature or special arrangement for the specific purpose of this service."

In addition to Article 688 of the Civil Law No. 75-58, which states: "The properties and movables that actually belong to the state or by virtue of a legal text for a public interest or for the administration or a public institution..." are considered state properties.

Therefore, the national private properties have an essential financial and economic function, distinguishing them from national public properties, achieving material profit through their management and operation, while the function of national public properties lies in achieving the public benefit through their allocation for public use³⁹, whether directly or indirectly through public facilities. Additionally, they are dedicated to serving the public interest of the national community and benefiting it, hence their management according to private law principles aligns with the material nature of these properties without affecting their legal nature.

Conclusion:

The study concludes by elucidating the legal and practical value of economic real estate, among the results achieved, and the recommendations sought to be implemented.

Firstly: The Results:

- The state hastened to enact some legislations in the field of real estate to propel the economy forward. Among the most important and prominent of these laws is Law No. 23-17, which defines the conditions and methods for granting economic real estate owned by the state for the purpose of implementing investment projects.

- The Algerian state has issued numerous legislations to facilitate the tasks assigned to each, in addition to respecting the territorial planning when creating new industrial zones. Naturally, these efforts cannot be successful unless the economic operator receives the necessary incentives to carry out their project.

- The Algerian legislator has excluded some properties or lands from being classified as economic real estate due to their specificity on the one hand and their legal nature on the other.

- Despite the importance and effectiveness of allocation, the Algerian legislator has excluded it from the category of economic real estate owned by the state intended for investment.

Secondly: The Recommendations:

Among the proposals sought to be implemented are:

³⁸ Al-Arabi Sahraoui, op. cit, p. 49.

³⁹ Aida Haddouri, "The Contemporary Concept of State Private Properties," Journal of Legal Studies and Research, Issue 6, University of M'sila, p. 307.

- Improving the investment climate by removing all bureaucratic barriers and simplifying procedures, alongside offering benefits and emphasizing exemptions that lead to attracting more investors.
- Activating investment in the human domain to match the legislative arsenal in the real estate field, to create human resources qualified to welcome investors according to a methodology that enhances the culture of communication with others.
- The necessity of benefiting from foreign expertise that transfers its exemplary experiences to our country using advanced technology. The economic real estate is available and organized in a market regulated by the National Agency for Mediation and Real Estate Regulation.
- Emphasizing and accelerating electronic transactions between the administration and the investor to facilitate and provide services in a short time frame, enabling them to obtain the real estate vessel quickly to carry out their project without any obstacles, similar to what Article 13/2 of Law No. 23-17 provides, which defines the conditions and methods for granting economic real estate owned by the state for investment projects, especially regarding the deadlines for responding to requests and their justification.
- The possibility of including allocated properties within economic real estate if their purpose changes on the one hand or if they are not exploited within the legal deadlines on the other.

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Secondly: Legal Texts

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