

## The Role of Tourism Real Estate in Promoting Investment in Algeria

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### Abstract:

People consider tourism real estate one of the important investment mechanisms. It involves using real estate in areas designated as tourist areas or areas of tourism expansion. It has become a preferred investment option for both domestic and foreign investors due to the legal privileges granted to this form of investment, both in substance and procedure. Investment in tourism real estate in Algeria also contributes to job creation and thus helps reduce unemployment, It also encourages investment, which can contribute to the state's public treasury if tourism real estate resources are utilized as intended. Therefore, tourism real estate should be developed in accordance with modern models that allow investment objectives to be achieved by current generations while preserving tourism real estate for future generations, within the framework of sustainable development.

**Keywords:** Tourism real estate, Investment, Sustainable development, National economy, Tourism development.

### Introduction:

New horizons for the national economy are opened by the field of investment and its development at the national and local levels, yet a methodology for developing available potential is established. The tourism sector is an integral part of the national economy and plays an active role in its development. It is a reliable pillar and represents one of the most important opportunities for Algeria to compensate for shortfalls in other sectors, particularly following the collapse in oil prices.

The attraction of both domestic and foreign investment to the tourism sector is dependent on the provision of future tourism real estate for these investments, and the establishment of a legal framework aimed at attracting investment through the privileges and facilities granted by the state for the acquisition of tourism real estate for investment projects. Consequently, this approach is instrumental in ensuring compliance with the state's general policy in the field of tourism. This is predicated on the pillars of sustainable development while preserving Algeria's wealth, authenticity, and cultural identity, and protecting its environment for both current and future generations.

In light of the aforementioned points, the objective of this study is to illuminate a significant component of national wealth with a focus on tourism real estate. To this end, the relevant legal and regulatory documents will be examined through the following inquiry : To what extent is tourism real estate effective in promoting investment in Algeria for achieving sustainable development ?

In order to answer this question requires us to adopt a descriptive approach to understand the concept of tourism real estate, alongside an analytical approach to examine the legal and regulatory texts governing it, as outlined below:

### **Chapter One: The Conceptual Framework of Tourism Real Estate**

### **Chapter Two: The Use of Tourism Real Estate in the Context of Investment**

### **Chapter One: The Conceptual Framework of Tourism Real Estate**

Tourism real estate holds significant economic importance, no less than that of industrial and agricultural real estate. Consequently, the Algerian legislature has focused on regulating it through the issuance of numerous legislative and regulatory texts, which we will examine to explore the concept of tourism real estate in Algeria.

To fully grasp the concept of tourism real estate, we must define it, outline its characteristics, clarify its legal nature, and present its components.

### **Section One : Definition and Characteristics of Tourism Real Estate**

We will first present the definition of tourist real estate and then outline its characteristics

### **Subsection One : Definition of Tourist Real Estate**

“Tourist real estate” is a compound term consisting of two parts. The first is the term “real estate,” which refers to: **“anything fixed in a specific location that cannot be moved from it without being damaged.”**<sup>1</sup>The term “tourist” is derived from “tourism,” which refers to: **“the temporary movement from one’s usual place of residence and work, whether within the same country or abroad.”**<sup>2</sup>

### **First : The Legal Definition of Tourist Real Estate:**

Algerian lawmakers have not defined “tourist property,” as evidenced by the legal and regulatory texts governing it. Under Decree No. 66/75<sup>3</sup>, which implements Order No. 66/62<sup>4</sup> regarding tourist areas and sites—specifically in Article 13—we find that the Algerian legislature limited itself to mentioning real property rights within tourist areas and sites, and the situation remained unchanged even after the repeal of the aforementioned Decree No. 66/62 by Law No. 03/03<sup>5</sup> concerning expansion zones and tourist sites, as under Article 20 thereof, we find that the Algerian legislature defines tourist real estate by specifying its composition.<sup>6</sup>

### **Second : The Jurisprudential Definition of Tourism Real Estate:**

In the absence of a precise legal definition of tourist real estate, some jurisprudential attempts have emerged to define it. Among these attempts, some have defined it as: **“anything permanent in the tourism sector, such as hotels and tourist vehicles constructed as part of an investment, or a specific plot of land classified as tourist land for the purpose of its use in the tourism sector.”**<sup>7</sup>

It has also been defined as: **“The collection of land and buildings designated for tourism activities that form part of tourism development zones, in addition to archaeological sites and ancient cities recognized for their historical or cultural significance.”**<sup>8</sup>

Others have defined it, based on its intended purpose, as: **“that real estate classified by law as having a tourist character and granting its owner the right to use it for tourism within the limits of the laws governing the tourism sector.”**<sup>9</sup>

### **Subsection Two: Characteristics of Tourism Real Estate**

Tourist real estate must possess a set of features that make it a tourist hub and distinguish it from other properties. The most important of these features or characteristics are as follows:<sup>10</sup>

**First : Natural Attractions :** These are created by the Almighty Creator, such as enchanting natural landscapes, mountains and forests, plains, rivers, seas, vegetation, and so on.

**Second : Man-made attractions :** These are man-made landmarks designed to welcome tourists, such as urban centers, hotels, restaurants, and religious sites, with the latter playing a significant role in attracting tourists.

**Third : The Environment :** This encompasses the external framework that includes all natural, biological, cultural, and historical elements, and the environment provides the true foundation for tourism activities.

### **Section Two : The Legal Nature of Tourism Real Estate and Its Components**

According to Algerian legislation, buildable tourism real estate consists of land designated for this purpose in the development plan, regardless of the legal nature of the land within the expansion area

or the tourism sites specified in the tourism development plan (<sup>11</sup>). Based on this, we will attempt to clarify the legal nature of tourism real estate and then explain its components.

### **Subsection One: The Legal Nature of Tourism Real Estate**

Article 20 of Law 03/03 on expansion zones and tourist sites stipulates that : **“Tourist real estate suitable for construction consists of lands designated for this purpose in the tourism development plan, and includes lands belonging to public and private state property as well as those belonging to private individuals.”** Thus, the legal nature of tourist real estate falls into one of two categories: it is either state-owned or privately owned.

#### **First: Tourism Real Estate as Public Property:**

This means that the property in question is owned by the State or one of its agencies; however, a distinction must be made between public national property and private national property,<sup>12</sup> **Land classified as public national property**, in accordance with Law No. 90/30 on national property, as amended and supplemented,<sup>13</sup> that public national property consisting of rights, movable property, and real estate used by all and placed at the disposal of the public, either directly or through a public facility, provided that, in this case, due to its nature or specific configuration, it is absolutely or fundamentally adapted to the specific purpose of that facility,<sup>14</sup> Natural resources and wealth as defined in Article 15 of the same law are also included within the public national property.<sup>15</sup>

According to the provisions of Articles 15 and 16 of the aforementioned Law 90/30, the Algerian legislature has divided public national property into two categories : **natural public property**, which includes seashores, lakes, and other bodies of water ; **and artificial public property**, which includes facilities intended for public use, such as public parks and cultural facilities. Both types are considered tourist properties, as they host tourist activities for which the property serves as a venue.<sup>16</sup>

As for **lands belonging to private national property**—whether owned by the state or by a regional group—they consist of properties not classified as public national property and which serve a proprietary and financial function,<sup>17</sup> . Articles 17 and 18 of Law No. 90/30 define the components of private national property. It should be noted that tourism real estate belonging to private national property is governed by all the provisions set forth in Chapter Three, entitled “Composition of Private National Property,” of Law No. 90/30 on National Property, as amended and supplemented, while also taking into account the provisions specific to tourism real estate contained in the legal and regulatory texts governing it.<sup>18</sup>

## **Second : Privately Owned Tourism Real Estate:**

Private-owned real estate in the tourism sector refers to properties owned by private individuals that are of a tourism nature—that is, they are located within expansion zones or tourist sites and are suitable for construction in accordance with the tourism development plan, such that the owner is prohibited from using or exploiting them for purposes other than those for which they were designated.<sup>19</sup> Accordingly, tourist real estate is presumed to be built, ready for construction, or consist of land possessing protected tourist features; however, in the vast majority of cases, tourist real estate in this context consists of hotels, tourist villages, spas, and restaurants developed as part of private tourism investments.<sup>20</sup>

### **Subsection Two : Components of Tourism Real Estate**

The Algerian legislature has attached great importance to defining tourism real estate and conferring upon it the status of public utility. Pursuant to the provisions of Law No. 03/03, tourism real estate includes :

**First : Tourism Development Zones :** According to Article 02, Paragraph 01 of Law No. 03/03, these zones are defined as : **“Any area or portion of the territory characterized by natural, cultural, human, and creative features and characteristics suitable for tourism, eligible for the establishment or development of a tourism facility, and capable of being utilized for the development of one or more profitable forms of tourism.”** In other words, tourism expansion zones consist of those protected, classified, and designated areas as defined by legal provisions that include planning within the National Regional Development Plan responsible for guiding hotel and tourism infrastructure.<sup>21</sup>

What can be concluded is that tourism development zones are essentially unbuilt or buildable lands possessing natural features, i.e., the potential to construct tourism facilities on them and utilize them to develop any type of tourism that generates significant revenue, including all types of hotel establishments, exclusive tourism hubs, beaches, or thermal waters.<sup>22</sup>

**Second : Tourist Site :** Tourist sites are considered an integral part of tourist real estate, no less important than tourism expansion areas. Paragraph 02 of Article 02 of Law No. 03/03 defines a tourist site as : **“Any landscape or site distinguished by its tourist appeal due to its picturesque appearance, or due to the natural wonders or features it contains, or the structures built upon it, recognized for its historical, artistic, legendary, or cultural significance, and whose authenticity must be valued and preserved from damage or destruction caused by nature or human activity.”**

According to Law No. 98/04<sup>23</sup> on the protection of cultural heritage, tourist sites typically include historic sites and built heritage, which refer to all immovable cultural properties, as well as designated and movable real estate, located on and within national property lands, owned by natural or legal persons and also located in the subsoil of national inland and territorial waters inherited from various successive civilizations, in addition to intangible cultural property resulting from social interactions and the creative works of individuals throughout the ages.<sup>24</sup>

**Third : Protected Area :** Paragraph 03 of Article 02 of Law 03/03 defines a protected area as : “**A part of an expansion zone or a tourist site that is not suitable for construction and requires special protection in order to preserve its natural, archaeological, or cultural attributes.**”

In accordance with Law 11/02 on protected areas within the framework of sustainable development (<sup>25</sup>), the following are considered protected areas that may be opened to the public and are related to tourism: national nature parks, buffer zones, and transit zones.<sup>26</sup>

## **Chapte Two : The Utilization of Tourism Real Estate within the Framework of Investment**

Investment in tourism real estate is linked to various procedures aimed at regulating the exploitation of real estate intended for investment, ensuring its proper use, in order to achieve diversification of income sources and eliminate dependence on fossil fuels, the volatility of which has long plagued the national economy. Therefore, the Algerian legislature has sought to regulate methods of real estate utilization with the aim of promoting the tourism sector, This can only be achieved after preparing the real estate to be ready to accommodate tourism projects. Based on this, we will address in this study the mechanisms for the use of tourism real estate (Section 1) and then demonstrate the impact of investment in tourism real estate on the national economy (Section 2)

### **Section One: Mechanisms for utilization of Tourism Real Estate**

The legislature has sought to regulate methods of real estate utilization with the aim of promoting the tourism sector, and such utilization can only occur after the property has been developed to the point where it is ready to accommodate tourism investment projects<sup>27</sup>. Based on this, we will first discuss the development of tourism real estate (Section One) and then address the forms of tourism real estate utilization.

#### **Subection One: Tourism Real Estate Development**

The identification, classification, protection, development, and upgrading of tourism expansion zones and tourist sites, as well as their revitalization, are matters of public interest, This is due to the importance of the tourism sector in the national economy and its role in the country’s development. However, designating the establishment of tourism expansion zones and sites as a matter of public interest should not serve as a pretext for infringing upon private property, The development

protection of the environment, the coastline, and cultural heritage. The development and planning of tourism expansion zones and tourist sites fall within the framework of the National Plan for Regional Planning and Sustainable Development, encompassing several sectoral plans, including the Master Plan for Tourism Planning<sup>28</sup>. Based on this, we will attempt, in the following sections, to define the legal meaning of tourism development (first), then clarify the role of the Master Plan for Tourism Development in achieving sustainable development goals (second), and we will also address tourism promotion (third).

### **First : Tourism Development**

Tourism development refers to a set of infrastructure projects carried out to enable the tourism-oriented development of expansion zones and tourist sites<sup>29</sup>. The National Tourism Development Agency is responsible for the tourism development process in accordance with Article 20 of Law No. 03/01 on the sustainable development of tourism,<sup>30</sup> This development consists of a series of projects aimed at creating infrastructure, spaces, and areas designed to attract tourism investments. The natural, human, and historical assets that any visitor-attracting area possesses are not sufficient to fully fulfill a tourism function; rather, these assets must be supported by tourism facilities that will serve tourists during their stay, such as hotels, restaurants, entertainment centers, and others. Tourism development, therefore, is the set of legal and technical guidelines aimed at strengthening areas with tourism potential through the planning of new tourism infrastructure, in addition to upgrading existing tourism infrastructure, without neglecting environmental balance. Since tourism development is the responsibility of the state, Articles 4 and 7 of Law No. 03/01 emphasize the support of the state and local authorities for the development and promotion of tourism activities.<sup>31</sup> The task of implementing and monitoring the tourism development process is entrusted to a public body known as the National Tourism Development Agency,<sup>32</sup>

### **Second : The Master Plan for Tourism Development**

The Master Plan for Tourism Development serves as a reference for a new policy adopted by the Algerian state ; it reflects the state's vision regarding sustainable development, with the aim of achieving a three-pronged balance encompassing social progress, economic efficiency, and environmental sustainability. For this reason, and within the framework of sustainable development, the state provides strategic guidelines for tourism development across the entire national territory.<sup>33</sup> The tourism development plan aims to:<sup>34</sup>

- To protect natural beauty and cultural landmarks, the preservation of which is a key factor in attracting tourists.

- To carry out investments based on specific objectives that will foster multifaceted development of the areas rich in expansion zones and tourist sites.
- Identifying areas suitable for development and construction, as well as areas that must be protected.
- Identifying the program of activities to be carried out.
- Identifying compatible functions and appropriate investments.
- Preparing the zoning plan for the projects to be implemented when necessary.

### **Third : Tourism Promotion**

Article 08 of Law No. 03/01 on the Sustainable Development of Tourism stipulates that public administrations, the State, regional authorities, and public bodies, within the scope of their respective jurisdictions, are required to incorporate tourism promotion into their sectoral policies. Consequently, the promotion of tourism in Algeria necessitates the involvement of all relevant stakeholders, meaning that tourism promotion encompasses all informational and communication activities aimed at highlighting tourism potential and capabilities, and includes, in particular, market studies and communication programs.<sup>35</sup>

#### **Subsection Two: Forms of Tourism Real Estate Utilization:**

There are various contracts pertaining to this property. Upon reviewing the legal texts defining the modes of tourism real estate utilization, we observe a diversity of contracts related to tourism real estate utilization, including sales contracts (formerly known as assignment), lease contracts, and concession contracts.

#### **First : Resale Contract (formerly assignment contract):**

This is a contract concluded between the National Agency for Tourism Development, which undertakes to transfer ownership of the tourist property to the buyer (investor) after its development pursuant to Article 25 of Law 03/03, in exchange for a cash price paid in a single installment or in installments according to a payment schedule in accordance with Articles 04 and 05 of the annex attached to Executive Decree No. 07/23, which specifies the procedures for the resale of land located within tourism expansion zones or the granting of concessions thereon; but this right was quickly revoked when Executive Decree 07/23 was repealed by Order 08/04, which amended Law 03/03 and repealed all provisions contrary to it, thereby abandoning the sale and resale contract as a mechanism for exploiting tourist real estate due to its disadvantages, the most significant of which is the alteration of the property's character after its purchase.<sup>36</sup>

## **Second : The Lease Agreement**

Article 18 of Law 03/03 stipulated the lease agreement as one of the approved methods for the exploitation of tourist real estate ; however, it did not specify the legal provisions governing it. Since the National Agency for Tourism Development is considered a trader in its dealings with non-state entities, referring to Article 1 of Executive Decree No. 98/70, which established the National Agency for Tourism Development and defined its basic law (<sup>37</sup>), which classifies the Agency as a merchant in its dealings with non-state entities, it is subject to private law. Consequently, the general rules governing lease agreements in the Civil Code apply to these lease contracts.<sup>38</sup>

## **Third : Concession Agreement**

Tourist real estate may be exploited through a concession for investments located on tourist properties belonging to the public or private national estate, whether in tourist expansion zones, tourist sites, beaches, or thermal waters. The concession is considered the predominant mechanism for investing in tourist real estate, as the Algerian legislature has established a legal framework to regulate this contract, the most important of which are: the concession for the use and utilization of thermal waters, the concession for the exploitation of public beaches, and the concession of land located within tourism development zones and tourist sites<sup>39</sup>

## **Section Two : The Impact of Tourism Real Estate Investment on the National Economy**

Investment in the tourism sector is primarily based on tourist attractions and resources, namely cultural heritage sites and natural heritage sites. The role and importance of investment in tourism real estate in the national economy can be classified into direct economic importance and indirect economic importance.

### **Subsection One : The Direct Economic Importance of Investment in Tourism Real Estate**

This importance is manifested as follows:<sup>40</sup>

**First : Improving the balance of payments :** This is achieved through the inflow of foreign capital for investment in tourism projects, as well as through the efficient use of the country's natural resources, in conjunction with the hard currency revenues generated by tourism demand—both from international and domestic tourism—thereby contributing to economic development.

**Second: Increasing national income:** The tourism sector, like any other sector, plays an effective role in generating national income, and this role varies according to the size and importance of the tourism sector in the national economy, Wages paid to workers, profits and revenues generated for investors, other financial flows, and the successful achievement of a high degree of integration between the tourism sector and other economic sectors can lead to an increase in the country's value added and national output.

**Third : Job Creation :** The tourism sector absorbs a large number of workers, as most of its services can only be performed by human labor and cannot be carried out by machines. The impact of investment in tourism real estate on employment varies according to the relative importance of the tourism sector in the national economy and its significance as a productive sector in relation to other sectors.

**Fourth : Financing the State Budget:** Since the state is the owner or supervisor of tourism real estate and facilities, the revenues generated by these properties or facilities naturally constitute revenue for the state budget. Furthermore, for tourism facilities in the mixed sector—which are owned jointly by the state and private individuals—the state receives a share of the revenue generated by them, which is included in its budget, in addition to taxes levied on tourism investments that finance the state budget.

#### **Subsection Two : The Indirect Economic Importance of Investment in Tourism Real Estate**

The indirect economic importance of investment in tourism real estate is as follows:<sup>41</sup>

**First: Infrastructure Development:** The demand for tourism requires the provision of a range of infrastructure facilities that must keep pace with various developments and changes in the social and economic environment.

**Second : Increased Investment Opportunities:** The diversity of investment areas in tourism real estate—such as hotels, tourist villages, wellness centers, thermal resorts, theaters, sports centers, and others—makes tourism projects among the most attractive investments for both foreign and local investors.

**Third: Changes in the general price level:** In any economic activity, inflation occurs when supply differs from demand, and this is what happens in tourism investment, especially during peak season, leading to a rise in the prices of tourism real estate that tourists choose to visit, and the same applies to tourism products and goods they purchase.

#### **Conclusion:**

In conclusion, it can be said that tourism real estate is one of the important investment mechanisms aimed at utilizing properties located in areas designated as tourist destinations or areas of tourism expansion, It has become a preferred investment option for both domestic and foreign investors due to the legal privileges granted to this form of investment—both substantive and procedural—which aim to promote related projects.

In addressing this topic, we have reached a number of conclusions, including the following:

- Tourism real estate is a vital component in achieving economic and social development, as enshrined in the legislative and regulatory texts governing it.

- Tourism expansion zones and tourist sites throughout the country are relevant to tourism investment, which necessitates their development and regulation in accordance with the specifications of the tourism development plan, which constitutes the strategic reference framework for tourism policy in Algeria.
- Tourism real estate is a form of economic real estate geared toward investment, and on this basis, the legislature has established numerous mechanisms for its use and exploitation, such as resale, leasing, or granting concessions.
- Investment in tourism real estate in Algeria contributes to job creation and thus reduces unemployment; it also encourages investment, which can help finance the state treasury if tourism real estate resources are utilized as intended.

Based on these findings, this study recommends the following:

- Work to raise social and legal awareness of the importance of tourism real estate and promote community action to protect it.
- Developing tourism real estate in accordance with modern development models, which allow for achieving the investment objectives of current generations while preserving tourism real estate for future generations within the framework of sustainable development.
- Compiling various legal and regulatory texts pertaining to tourism real estate, across its various fields, into a single code to facilitate research and administration, assist judges in resolving disputes, and aid investors who may find it difficult to determine the applicable law.

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