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The Reality of Individual Financing in the Real Estate Development Sector in Algeria: Between Conventional and Islamic Financing

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Abstract

Given the significant role that housing plays in individuals' lives, the Algerian authorities have implemented numerous measures and policies to ensure its availability,one of the most notable initiatives has been the incorporation of real estate promotion into the legal framework, allowing banks to provide mortgage loans under the conventional financing system.

However, due to the interest-based nature of conventional financing, which is prohibited under Islamic law, the legislator introduced an alternative financing mechanism through products that comply with the principles of Sharia, This initiative falls under the broader framework of Islamic housing finance.

This study examines the regulatory frameworks governing both conventional and Islamic financing in Algeria, identifying legal and practical shortcomings associated with these two financing models and proposing viable solutions to address these issues.

Keywords: Individuals; the Real Estate Development; Conventional Financing; Islamic Financing; Algeria.

Introduction

Housing holds a special place in society as a fundamental necessity and a basic right that every individual should enjoy as a member of the community. The international community has long recognized the right to adequate housing, as affirmed in the Universal Declaration of Human Rights[1], and further reinforced by the International Covenant on Economic, Social and Cultural Rights[2].

1- Universal Declaration of Human Rights, Article 25, adopted and proclaimed by United Nations General Assembly Resolution 217 A (III), December 10, 1948.

2- International Covenant on Economic, Social and Cultural Rights, Article 11(1), adopted and opened for signature, ratification, and accession by United Nations General Assembly Resolution 2200 A (XXI), December 16, 1966; entered into force on March 23, 1976.

This global concern became particularly prominent in 1978 when the United Nations General Assembly mandated the establishment of the United Nations Human Settlements Programme (UN-Habitat) under the slogan *"Adequate Shelter for All."* This was followed by the introduction of the Global Strategy for Shelter, which grants awards to entities that propose innovative solutions to housing challenges[3].

Many countries have made significant efforts to achieve this international objective of ensuring adequate housing, including Algeria. This commitment was reflected in the integration of real estate promotion within the country's legal framework. The evolution of this sector became evident in the mid-1980s with the enactment of the first law governing real estate promotion in Algeria[4]: Law No. 86-07, which served as the initial regulatory framework for this activity. It was later repealed by Law No. 93-03 on real estate activities[5] which was subsequently replaced by Law No. 11-04, currently in force, defining the rules governing real estate promotion activities[6].

Given that real estate promotion serves as a mechanism for transitioning from a state-controlled economy to one based on free enterprisethrough a set of measures established by the legislatorprivate entities have been integrated into the processes of construction and financing. This shift has enabled banking institutions to play a direct role in housing sector financing, primarily through mortgage loan mechanisms.

Mortgage loans intended for residential properties represent one of the most significant financial products offered by lending institutions. These loans play a crucial role in addressing the growing annual demand for housing. Consequently, several banks have intervened to provide mortgage loans to individuals, facilitating homeownership.

However, within the realm of housing finance, and considering the prohibition of interest-based transactions in conventional mortgage loans, Algeria adopted an Islamic financing system based on the general principles of Sharia law. This was initially established through Regulation No. 18-02, which set forth the rules governing participatory banking operations marking the first regulatory text defining the principles of Islamic finance[7]. This regulation was later repealed in 2020 and replaced by Regulation No. 20-02, which defines the banking operations related to Islamic finance and the rules governing their implementation by banks and financial institutions[8].

3- United Nations, World Habitat Day is observed annually on the first Monday of October.

4- Law No. 86-07, dated March 4, 1986, concerning real estate promotion, *Official Gazette* No. 10, March 5 1986 (repealed).

5- Legislative Decree No. 93-03, dated March 1, 1993, concerning real estate activity, *Official Gazette* No. 14 March 3, 1993 (repealed).

6- Law No. 11-04, dated February 17, 2011, defining the rules governing real estate promotion activity, *Official Gazette* No. 14, March 6, 2011.

7- Regulation No. 18-02, dated November 4, 2018, establishing the rules for conducting banking operations related to participatory banking by banks and financial institutions, *Official Gazette* No. 73, December 9, 2018 (repealed).

8- Regulation No. 20-02, dated March 15, 2020, defining banking operations related to Islamic banking and the rules governing their practice by banks and financial institutions, *Official Gazette* No. 16, March 24, 2020.

Islamic banking was officially incorporated into Algerian banking legislation for the first time in 2023 through Law No. 23-09, which introduced the new Monetary and Banking Law. This law repealed the provisions of Ordinance No. 03-11, which previously governed monetary and credit regulations[9].

This research paper aims to examine the various mechanisms and legal requirements governing individual financing through both mortgage loans and Islamic banking. To achieve this, the study addresses the following central question:

How has the Algerian legislator regulated conventional and Islamic financing for individuals within the framework of real estate promotion?

To answer this research question, the inductive method was adopted. The study is structured into two main sections:

- The first section explores conventional financing for individuals within the real estate promotion sector in Algeria **(1).**
- The second section focuses on Islamic financing **(2).**

1. THE REALITY OF CONVENTIONAL FINANCING FOR INDIVIDUALS IN THE CONTEXT OF REAL ESTATE PROMOTION IN ALGERIA

Real estate promotion loans are closely linked to the housing sector, as individuals seeking mortgage loans rely on this financial mechanism to enhance their purchasing power and acquire a home. Given that housing is a fundamental necessity and an urgent priority among individuals' basic needs, the Algerian authorities have specifically intervened in this type of loan.

This intervention is particularly evident in the executive authority's regulation of interest rates applied by banks and financial institutions offering real estate promotion loans. This falls within the framework of subsidized housing loans, which are designed to benefit lower-income segments of society. These loans allow eligible individuals to acquire residential property at an interest rate adjusted to their limited financial capacity.

Therefore, real estate promotion loans in Algerian law are state-subsidized loans, where interest rate caps are set by the executive authority rather than the Bank of Algeria, These caps are established through executive decrees and range between 1% and 3%, depending on the borrower's monthly income.

To qualify for these loans, certain eligibility criteria must be met **(1.1)**, and their financing is largely monopolized by a few banks in Algeria **(1.2).**

1.1. Conditions for Conventional Financing of Individuals in the Context of Real Estate Promotion in Algeria

9- Law No. 23-09, dated June 21, 2023, concerning monetary and banking law, *Official Gazette* No. 43, June 27 2023.

To qualify for real estate promotion loans, Algerian law establishes specific conditions. These include legal capacity **(1.1.1),** and given the significant role of real estate and its territorial link to the state, the legislator also requires Algerian nationality as an essential prerequisite for obtaining such loans **(1.1.2).**

Additionally, the legislator mandates that applicants must have a stable and regular monthly income, which serves as a fundamental condition for loan eligibility. The loan amount is determined based on the borrower's monthly income **(1.1.3).**

1.1.1. Legal Capacity

For a contract to be valid under Algerian law, mutual consent must come from an individual with full legal capacity. This capacity must be free from defects of will, such as error, fraud duress, or exploitation. A natural person attains full legal capacity upon reaching the age of majority, which, according to Article 40 of the Algerian Civil Code, is 19 years old[10].

Consequently, lending institutions in Algeria are responsible for ensuring that loan applicants meet the legal capacity requirement before entering into a mortgage contract. This means that the borrower must be at least 19 years old and fulfill all other legal conditions stipulated by law.

1.1.2. The Algerian Nationality Requirement

Banks require Algerian nationality as a fundamental condition for granting loans within the real estate promotion sector. Additionally, applicants must provide proof of permanent residence in Algeria. As part of the required loan application file, borrowers must submit a document verifying their residence status.

However, requiring permanent residence in Algeria for real estate promotion loans does not exclude Algerians residing abroad from accessing such financing. As long as they hold Algerian nationality and can provide legal proof of residence in their country of residence they remain eligible for these loans.

This categoryAlgerian expatriatescan therefore benefit from bank financing for housing acquisition. This eligibility has been explicitly recognized by law, as Algerian legislation now expressly allows Algerians living abroad to purchase housing under real estate promotion programs. This provision is clearly affirmed in Article 3 of Executive Decree No. 18-311 which defines the conditions and procedures for purchasing public promotional housing. The article states:

"Applicants eligible for public promotional housing include Algerian nationals residing abroad who are legally registered with diplomatic and consular representations."[11]

10- Article 40 of Ordinance No. 75-58, dated September 26, 1975, concerning the Civil Code, *Official Gazette* No. 78, September 30, 1975, as amended and supplemented.

11- Executive Decree No. 18-311, dated December 10, 2018, defining the conditions and procedures for purchasing public promotional housing, *Official Gazette* No. 74, December 12, 2018.

Based on the above, any individual holding Algerian nationality and providing proof of permanent residence, whether in Algeria or abroad, has the right to obtain a housing loan provided that all other eligibility requirements are met. Conversely, by implication, Algerian banks exclude foreign nationals from accessing mortgage loans for housing acquisition.

1.1.3. The Regular Monthly Income Requirement

All lending institutions agree on the necessity for loan applicants to have a stable and regular income, which must exceed at least the guaranteed national minimum wage, Consequently any client seeking a mortgage loan within the real estate promotion sector in Algeria must agree with the bank on a repayment plan, The loan must be repaid through periodic installments, which are deducted from the borrower's regular income.

Given the significance of wages for workers, the Algerian legislator has established mandatory legal provisions to regulate them, the most important of which is the minimum wage requirement, which cannot be waived to protect salaried employees. In Algerian lawthe guaranteed national minimum wage is set at 20,000 DZD[12].

The minimum wage plays a particularly crucial role in real estate promotion loans, which is evident at three key levels:

- It serves as a benchmark used by banks to determine the interest rate cap for subsidized real estate promotion loans.
- It is used as a reference in calculating the amount of financial assistance provided by the state to individuals.
- The Role of the Guaranteed National Minimum Wage in Determining Beneficiaries of Housing Programs. The guaranteed national minimum wage is also used to identify eligible beneficiaries of housing programs developed under real estate promotion activities. The law specifies a list of individuals eligible for different housing programs, taking into account a set of conditions, the most important of which is the applicant's monthly income.

To verify an applicant's income level, any official document or statement issued by their employer or the company where they work may be submitted. In practice, lending institutions rely on salary slips as proof of income. Typically, banks require applicants to provide salary statements for the last three (3) months, along with an annual salary certificate and any other required documents, which may vary from one bank to another.

12- Article 1 of Presidential Decree No. 21-137, defining the guaranteed national minimum wage,*Official Gazette No.28, Abril14, 2021.*

In French law, the guaranteed national minimum wage was established by Decree No. 2019-1387, dated December 18, 2019, concerning the increase of the minimum growth wage, *Official Journal of the French Republic* No. 0294, December 19, 2019.

1.2. Banks Involved in Conventional Financing for Individuals in the Context of Real Estate Promotion in Algeria

Most banks in Algeria participate in granting real estate promotion loans to both individuals and real estate developers. This stands in contrast to financial institutions, which have shifted their funding focus primarily toward businesses, particularly small and medium-sized enterprises (SMEs). These institutions predominantly rely on leasing mechanisms as their main financing method.

As a result, mortgage loans in Algeria are predominantly offered by banks, which include both public sector banks **(1.2.1)** and private sector banks **(1.2.2).**

1.2.1. Conventional Financing for Individuals in Algerian Public Banks

The restructuring of the housing sector financing system in Algeria has opened the door for various banks to participate in housing finance. Public banks have played the most significant role in granting mortgage loans, as they serve as instruments of the state to support the development of this sector.

The National Savings and Reserve Fund has historically been the leading financial institution funding the housing sector in Algeria. For a certain period, it even monopolized this role **(A)** However, the liberalization of the real estate promotion sector within the banking industry has led to the emergence of other prominent financial institutions, including the Algerian National Bank **(B)** and the Algerian Popular Credit Bank **(C).**

A.Conventional Financing for Individuals through the National Savings and Reserve Fund (CNEP Bank)

The National Savings and Reserve Fund (CNEP Bank) is one of the leading financial institutions involved in funding real estate promotion activities in Algeria. It offers various types of mortgage loans to individuals seeking to finance the purchase of residential properties.

In this regard, CNEP Bank provides its individual clients with different categories of real estate promotion loans, which include:

- Mortgage loans for acquiring privately promoted housing;
- Mortgage loans for acquiring publicly promoted housing;
- Mortgage loans for acquiring subsidized promotional housing;
- Mortgage loans for acquiring social participatory housing;
- Mortgage loans for acquiring a home under an off-plan sales agreement.

Individuals who meet the eligibility criteria set by the National Savings and Reserve Fund (CNEP Bank) can benefit from the aforementioned mortgage loans. The required conditions include:[13]

- Algerian nationality;

13- official website of thethe National Savings and Reserve Fund (CNEP Bank), https://www.cnepbanque.dz

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- The applicant must be between 19 and 70 years old;
- The applicant may reside either in Algeria or abroad;
- The applicant must have a stable and regular monthly income.

Clients of CNEP Bank can benefit from several advantages, including:

- Financing coverage of up to 90% of the property's purchase price;
- A repayment period of up to 30 years, provided that the borrower's age does not exceed 75 years at the end of the loan term.
- Interest rates range between 5.75% and 6.50%.
- Loan repayment can be deferred for up to six (06) months.
- The loan amount may be increased if the beneficiary can supplement their income with that of a family member or a partner.

B.Conventional Financing for Individuals through the Algerian National Bank (BNA)

The Algerian National Bankwas the first bank established in Algeria and has played a crucial role in economic development since its founding in 1966. The bank has been actively involved in funding various sectors, including the housing sector[14].

As part of its financing solutions, BNA offers its individual clients eleven (11) tailored mortgage financing plans. These financing options cover a wide range of loans, including those designated for renovation and construction work, as well as loans for housing acquisition.

For the latter category, within the framework of real estate promotion, BNA provides its clients with various mortgage loan offers, which include[15]:

- A mortgage loan with a subsidized interest rate for purchasing subsidized promotional housing.
- A loan for acquiring a promotional housing unit under an off-plan sales agreement.
- A loan with a reduced interest rate for purchasing a completed collective housing unit or acquiring a collective promotional housing unit under an off-plan sales agreement.

Some of the eligibility criteria set by the Algerian National Bank (BNA) may vary depending on the financing plan and the type of housing unit to be acquired within the real estate promotion framework. However, three (3) fundamental requirements apply uniformly across all the previously mentioned mortgage loan options:

- The borrower's age must not exceed seventy-five (75) years at the end of the loan term.

14- Algerian National Bank (BNA) serves 2.7 million individual and corporate clients and operates 214 commercial branches across the national territory, managed by 17 regional operational directorates. Available on the official website of the Algerian National Bank: www.bna.dz/ar.

15- the official website of the Algerian National Bank: www.bna.dz/ar.

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- The applicant must have a stable and regular income, with the minimum required income varying based on the type of housing unit being acquired.
- Algerian nationality.

Borrowers benefit from several loan advantages offered by the Algerian National Bank which include:

- A loan term of up to forty (40) years, subject to the maximum age limit.
- Financing coverage of up to 90% of the housing unit's purchase price.
- A repayment deferral period of up to twenty-four (24) months.
- Repayment through fixed monthly installments, covering both principal and interestwith the option of early repayment.
- Reduced interest rates for specific housing programs, within the regulatory framework, as well as preferential interest rates for savings account holders.

C.Conventional Financing for Individuals through the Algerian Popular Credit Bank (CPA)

The Algerian Popular Credit Bank (CPA) plays a significant role in housing sector financing offering individuals the opportunity to acquire residential properties through various financing schemes. Within the framework of real estate promotion, CPA provides its clients with two main types of mortgage loans:

- A mortgage loan for purchasing a new housing unit under an off-plan sales agreement.
- A mortgage loan with a subsidized interest rate for acquiring a collective promotional housing unit or constructing a rural home.

CPA has established a set of eligibility criteria that loan applicants must meet. These include the general requirements applicable to all mortgage loans, along with additional bank-specific conditions, which are as follows[16]:

- Any natural person of Algerian nationality, whether residing in Algeria or abroad, who has full legal capacity.
- Proof of a stable and regular income, at least equal to the guaranteed national minimum wage. For non-residents, 50% of their declared income is considered, with the amount converted into the national currency.
- Proof of a personal financial contribution of at least 10% of the housing unit’s purchase price.
- The monthly repayment installment must not exceed 30% of the total net monthly income. Exceptionally, the repayment ratio may reach 40%, provided the applicant signs an acceptance letter as required by legislation. For applicants with an income equal to or exceeding 15 times

16- the official website of the Algerian National Bank: www.bna.dz/ar , accessedDecember11, 2024 at11:1 3

the guaranteed national minimum wage, the monthly repayment installment may reach 50% of their income.

Advantages for Borrowers from the Algerian Popular Credit Bank (CPA)

Individuals who obtain mortgage loans from CPA benefit from several advantages including[17]:

- The loan term can extend up to 30 years, determined based on the applicant's age with a maximum age limit of seventy-five (75) years.
- The loan amount can cover up to 90% of the housing unit's purchase price, calculated according to the income of the applicant and their spouse or a family member (father brother, sister, son, daughter, or direct relative).
- The interest rate is determined according to the bank's general conditions, and for subsidized loans, it is set in accordance with regulatory provisions.
- Repayment is made on a monthly basis, with fixed installments calculated based on the applicant's income, covering the principal loan amount, interest, and applicable taxes, if any.
- The deferment period is set at a maximum of six (6) months from the loan disbursement date if the loan is used in a single installment, or from the date of the final disbursement if the loan is disbursed in multiple installments.

1.2.2. Conventional Financing for Individuals in Private Banks in Algeria

Following the enactment of Law No. 90-10 on Monetary and Credit, the Monetary and Credit Council authorized the establishment of branches of foreign financial institutions and banks operating outside Algeria. Additionally, it permitted the creation of private banks with national capital, as well as joint ventures with mixed national and foreign capital, in accordance with the legally required conditions and procedures.

In this context, several private banks have been authorized to operate in Algeria. According to the latest directive from the Bank of Algeria, the country currently has 13 private banks out of a total of 20 authorized banks.[18]

Some of these private banks have actively participated in financing real estate promotion activities, with the most prominent being:

- Gulf Bank Algeria (A)
- BNP Paribas Algeria (B)

A.Conventional Financing for Individuals through Gulf Bank Algeria (AGB)

17- Ibid.

18- Decision No. 25-01, dated January 2, 2025, publishing the list of licensed banks and financial institutions in Algeria, *Official Gazette* No. 03, January 22, 2025.

Gulf Bank Algeria (AGB) is a private commercial bank affiliated with Kuwait Projects Company (KIPCO Group). It was licensed by the Bank of Algeria on December 15, 2003[19]and began its official operations in 2004[20],The bank is legally authorized to conduct all banking activities recognized under Algerian law[21].

As part of its role in real estate promotion financing, Gulf Bank Algeria offers "BAYTI" loans, a mortgage financing product designed for individual clients to facilitate housing acquisition through its 61 branches across the country.

The bank provides this mortgage loan in various forms, tailored to meet the specific needs of its clients. These financing options cover[22]:

- The purchase of new or existing properties from private owners.
- The purchase of a completed property from a real estate developer.
- The purchase of a property under an off-plan sales agreement.

To qualify for these mortgage loan options, Gulf Bank Algeria has established a set of eligibility criteria, which include[23]:

- Algerian nationality.
- The applicant must be a resident of Algeria or living abroad.
- The applicant must be at least 21 years old, with a maximum borrowing age of 70 years.
- Proof of a stable monthly income for at least one year for employees or salaried workers, and for at least two years for business owners or professionals.
- Minimum income requirement, determined as follows:
    - 75,000 DZD for employees or salaried workers.
    - 100,000 DZD for business owners or professionals.
    - 90,000 DZD for applicants seeking subsidized loans.

Similar to public banks, clients of Gulf Bank Algeria can benefit from several advantages offered by the bank for individual borrowers, particularly:

- A loan repayment period of up to thirty (30) years.
- A reduced interest rate for subsidized mortgage loans, adjusted according to the borrower's monthly income.
- A streamlined and expedited process for loan assessment and approval.

19- Pursuant to Decision No. 03-03, dated December 15, 2003, granting bank authorization, *Official Gazette* No. 79, December 17, 2003.
20- Available on the official website of Gulf Bank Algeria: https://www.agb.dz , accessedDecember12, 2024 at01:49.
21- Article 3 of Decision No. 03-03, granting bank authorization, *op. cit.*
22- Available on the official website of Gulf Bank Algeria: https://www.agb.dz , accessedDecember12, 2024 at3:20.
23- Ibid.

B.Conventional Financing for Individuals through BNP Paribas Algeria

BNP Paribas Algeria is a 100% subsidiary of the French multinational banking group BNP Paribas[24]. It was licensed by the Bank of Algeria in 2002 under Decision No. 02-01, dated January 312002[25].

BNP Paribas Algeria offers its individual clients a wide range of banking services, including various mortgage loan options. The bank provides financing for the acquisition of new housing units from a real estate developer, as well as off-plan property purchases. Additionally, it offers mortgage loans for the purchase of existing homes or plots of land for construction. The bank also finances construction, expansion, renovation, and related works.

To qualify for BNP Paribas Algeria's mortgage loan programs, applicants must meet the following eligibility criteria:[26]

- Algerian nationality.
- Full legal capacity, which, according to the bank, requires the applicant to be at least nineteen (19) years old, with a maximum age limit of seventy (70) years.
- Residence in Algeria.
- A stable income from either salaried employment or self-employment.

The eligibility criteria for mortgage loans provided by BNP Paribas Algeria include the following conditions:

- Financing terms range from two (2) to twenty-five (25) years.
- Interest rates start at 6%.
- The bank can finance up to 90% of the project's value, subject to the borrower's repayment capacity.

From the analysis above, it is evident that lending institutions involved in real estate promotion financing in Algeria are primarily banks. Practical experience further demonstrates that these banks establish specific eligibility criteria that individuals must meet in order to qualify for financing.

These requirements can be categorized into two types. The first category consists of general conditions that apply to all banks, including Algerian nationality, full legal capacity, and the requirement for a stable and regular monthly income.

The second category comprises bank-specific conditions, which vary depending on the lending policies of each financial institution. These conditions are tailored to align with the strategic objectives and risk management frameworks of individual banks.

24- BNP Paribas Algeria operates 71 branches and 14 business centers in Algeria and has subsidiaries in 80 countries worldwide.

25- Decision No. 02-01, dated January 31, 2002, granting bank authorization, *Official Gazette* No. 09, February 10, 2002.

26- Available on the official website of BNP Paribas Algeria,https://www.bnpparibas.dz , accessedDecember 16, 2024 at 22:43.

2. The Reality of Islamic Financing in Real Estate Promotion in Algeria

Islamic banking in Algeria has experienced significant growth, particularly following the enactment of the law regulating banking operations related to Islamic finance. As a resultpublic banks operating in the national market have obtained authorization from the Higher Islamic Council to offer Islamic banking products. Additionally, several private Algerian and foreign banks have entered the market, expanding the range of Islamic financial services[27].

In the housing sector, Islamic banking primarily provides real estate financing through cost-plus financing and lease-to-own financing, both of which have emerged as competitive alternatives within the broader financial landscape, including conventional and Islamic banks **(2.1).**

However, despite the advantages provided by Islamic banking to a large number of individuals, its implementation in Algerian banks has encountered several challenges. These obstacles are primarily related to real estate project financing and include broader structural challenges affecting Islamic banking as a whole **(2.2).**

2.1.Scope of Individual Financing within Islamic Real Estate Banking

Article 04 of Law No. 20-02 defines banking products related to Islamic finance. However, an examination of the definitions provided for these products reveals that two primary financing options are available for individuals seeking to acquire housing. These are the Murabaha and Ijarah systems, which define the scope of individual financing **(2.1.1)**, This scope is also determined by the institutions authorized to provide such financing **(2.1.2)**.

2.1.1.Subject Matter Scope

Law No. 20-02 characterizes banking operations related to Islamic finance as "any banking transaction that does not involve the collection or payment of interest, and such transactions must comply with the provisions outlined in Articles 66 to 69 of the Currency and Credit Law." This description clearly applies to both Murabaha and Ijarah transactions, although each has distinct characteristics that warrant further clarification, particularly in terms of their alignment with the principles of Islamic finance.

A. Real Estate Murabaha

Murabaha is a type of sale governed by both Islamic jurisprudential principles and civil law resulting in various definitions of this contract across legal and jurisprudential frameworks. For example, the Maliki scholars define Murabaha as: "Selling goods at the price paid for them, with an additional

27- As a result, licenses for Islamic finance products experienced significant growth, increasing from 49 in 2020 to 89 by the end of October 2021. Statement by the Governor of the Bank of Algeria, available on the official website of the Bank of Algeria: https://www.bank-of-algeria.dz.

known profit for both parties." The Hanafi scholars characterize it as: "A sale at the original price with an added profit margin."

According to the Shafi'i school, Murabaha is described as: "A contract where the price is based on the initial cost with an added margin." Meanwhile, the Hanbali scholars define it as: "A sale with a profit margin, where the capital is specified, such as 'the capital was 100, and I sold it to you for 110"[28].

From a legal standpoint, the banking regulator defines Murabaha as: "A contract in which a bank or financial institution sells a known good, whether movable or immovable, owned by the bank, to a customer at the cost of acquisition, plus an agreed-upon profit margin, under mutually agreed payment terms between the parties"[29].

This definition aligns with the one set forth by the Bank of Algeria Instruction No. 03-2020which outlines Islamic finance products and specifies the procedures and technical characteristics for their implementation by banks and financial institutions[30].

The Murabaha referred to in the above articles is commonly known as simple or ordinary Murabaha. However, there exists another variation called compound Murabaha or Murabaha for the purchaser's order. In this version, the bank purchases a property based on the customer's request and according to the specifications set by the purchaser.

Article 09 of the aforementioned instruction defines it as: "A contract whereby the bank or financial institution purchases a good, either movable or immovable, from a third party, other than the purchaser or their agent, based on the request and specifications of the purchaser. The bank then sells the item at a price equal to its acquisition cost, plus an agreed-upon profit margin, in accordance with the payment terms agreed upon between both parties."

B. Real Estate Ijarah

Ijarah is regarded as one of the cornerstone products in Islamic finance. Islamic scholars have provided several definitions of this contract, all of which converge on a similar interpretation: "A

28-Elham Hawass, "The Legal Content of the Murabaha Contract According to the Principles of Islamic Finance" Electronic Journal of Legal Research, Moroccan Institute of Scientific and Technical Information, Morocco Issue 04, 2019, p. 366.

The article is available on the website: file:///C:/Users/admin/Downloads/17554-44959-1-PB.pdf, accessed December19, 2024, at 18:22.

29- Article 05 ofRegulation No. 20-02, defining banking operations related to Islamic banking and the rules governing their practice by banks and financial institutions, op. cit.

30 Article 03 of Instruction No. 03-2020, dated April 2, 2020, defining products related to Islamic banking and specifying the procedures and technical characteristics for their implementation by banks and financial institutions, available on the Official Bank of Algeria's website: https://www.bank-of-algeria.dz, accessedJanuary 02, 2025 at 22:43.

contract for the leasing of a specified benefit, for a specified period, from a specified or described property, whether it is in kind or on account, in exchange for a known compensation".[31]

From a legal perspective, the banking regulator defines Ijarah as: "A lease contract in which the bank or financial institution, as the lessor, places an item, either movable or immovable owned by the bank or financial institution, at the disposal of the customer, as the lessee, for a specified period, in exchange for rent that is specified in the contract"[32].

This definition aligns with the text of Article 24 of Instruction No. 03-2020, which also defines products related to Islamic finance.

This instruction classifies Ijarah into two primary types: operational Ijarah and Ijarah with an option to purchase. Operational Ijarah refers to regular leasing, wherein the lessee does not gain ownership of the leased property (such as a home). Conversely, Ijarah with an option to purchase is clearly defined by its name: it is a lease arrangement under which the bank or financial institution grants the lessee the option to acquire ownership of the leased property at the conclusion of the agreed term[33].

It is important to note that the legislator has excluded property ownership financing through a participation system, reserving this structure for profit-generating purposes only, as stipulated in Article 06 of Law No. 20-02, referenced earlier.

2.1.2. Personal Scope

Algeria has not remained unaffected by the rapid expansion of Islamic finance globally. In parallel with global trends, the Algerian banking sector has progressively opened its doors to Islamic finance, particularly following the establishment of a regulatory framework for Islamic financial operations[34]. In this context, numerous banks and financial institutions in Algeria have begun to offer products that align with Islamic Sharia principles.

Both public and private financial institutions in the country obtained approval from the Higher Islamic Council to offer Islamic finance products and services.

Alongside banks specifically licensed to operate within the Islamic finance sector, several other institutions have introduced a range of products designed to finance residential property acquisitions, each incorporating a pre-agreed profit margin.

The predominant financing mechanisms for individual housing purchases have been based on the Murabaha and Ijarah systems.

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31 Ahmad Mohamed Nassar, "The Ijarah Contract: Jurisprudence and Application," p. 05, article available on the website: http://iefpedia.com/arab/wp-content/uploads/2009/11/vb.pdf, accessed January02, 2025, at 23:53.

32 Article 08 of Regulation No. 20-02, defining banking operations related to Islamic banking and the rules governing their practice by banks and financial institutions, op. cit.

33 Article 32, Ibid.

34- As a result, licenses for Islamic financing products saw significant development, moving from 49 in 2020 to 89 by the end of October 2021. Refer to the statement by the Governor of the Bank of Algeria, available on the official website of the Bank of Algeria: https://www.bank-of-algeria.d, accessed January 7, 2025, at 01:43.

A. Financing Individuals Through Islamic Banks

Islamic banks are institutions that operate under specific regulations that govern their establishment and conduct of activities, these banks are defined as: "Financial institutions whose foundational statutes and regulatory framework explicitly affirm their adherence to Sharia principles, particularly the prohibition of dealing with interest, whether as a receiver or payer".[35]

As noted previously, Algeria is home to two such institutions that operate fully in accordance with Sharia law: Baraka Bank and Al-Salam Bank.

A-1. Baraka Bank

In alignment with Law No. 03-11 on currency and credit, Baraka Bank was granted the authority to engage in banking operations that comply with Islamic Sharia principles, The bank predominantly utilizes the "Ijarah with an option to purchase" model for individual financing, a mechanism endorsed by the bank's Sharia board. This model enables clients to choose the residential property they wish to purchase, whether from a real estate developer or private seller. Baraka Bank offers several advantages to its customers, which include[36]:

- Financing with fixed monthly installments.
- The possibility of deferring payments for up to nine (9) months, with repayment terms extending up to twenty (20) years.
- The option to include a spouse, family member, or relative (parents or children) in the financing, provided the monthly salary is below 40,000 DZD.

The criteria for eligibility under this financing model, as stipulated by the bank, include[37]:

- The applicant's age must not exceed seventy (70) years at the time of the final payment.
- The applicant must demonstrate a stable monthly income of at least 40,000 DZD.
- The applicant must be employed, self-employed, a merchant, a professional, or a skilled worker.
- The applicant must be employed under a permanent contract (with at least six months of professional experience).
- A registered copy of the property ownership contract must be submitted.
- A seriousness guarantee margin of at least 10% of the total property value.
- The profit margin ranges between 7% and 7.5%.

35- Habiba Abdeli, Wafa Abdeli, "Islamic Banking in Algeria – Reality and Challenges," Journal of Law and Political Science, Vol. 07, Issue 02, Faculty of Law and Political Science, University of Khenchela, 2020, p. 66.

36- Official website of Al Baraka Bank: https://www.albaraka-bank.dz.

37- Official website of Al Baraka Bank: https://www.albaraka-bank.dz.

- A preferential profit margin of 6% to 6.5% for holders of the Baraka Savings and Investment Account.

Furthermore, Baraka Bank has introduced a specific financing program for public housing projects, branded "Dar Al-Baraka LPP." This initiative allows the bank to finance individualswhether residing in Algeria or abroad, to settle the final installment required for the acquisition of this type of housing. The qualifications for participation in this program are as follows:

- Possession of an appointment decision.
- A stable monthly income of at least 120,000 DZD.
- A property evaluation conducted by Baraka's specialized entities.
- A construction progress of at least 70%.

Under this program, the financing terms and conditions are as follows:

- The financing period ranges from two (2) to twenty (20) years, with an age limit of no more than seventy (70) years at the time of the final installment.
- A profit margin between 6% and 6.5% for savers, and from 7% to 7.5% for non-savers.
- Financing can cover up to 80% of the property's value, with a seriousness guarantee margin of at least 20% of the property's price. The financing amount can be further augmented by involving a spouse or another family member, depending on individual circumstances.
- The monthly instalment is deducted from the applicant's stable income, with no requirement for a salary transfer, and the option to advance payments after two years of financing.

A-2. Bank Al-Salam

Bank Al-Salam operates in full compliance with the principles of Islamic Sharia across all its transactions. The bank offers individuals interested in acquiring housing, either from a real estate developer or private sellers, bank financing through a model approved by its Sharia Supervisory Board. Specifically, this involves the lease-to-own model.

Under this scheme, the financing can reach up to 20 million DZD, with a repayment period ranging from 5 to 25 years. The bank purchases the residential property at the client's request and subsequently leases it to them under an Ijarah contract. This lease is coupled with a promise to transfer ownership of the leased asset to the tenant either at the end of the lease term or during its duration. The process is conducted through separate contracts, each independent of the others, as stipulated by Sharia law[38]:

- The applicant must be between the ages of 18 and 70 at the time of the last payment.
- The applicant must have a permanent, indefinite-term employment contract.

38- Official Website of Al Salam Bank: https://www.alsalamalgeria.com, accessedJanuary 17, 2025, at 19:51.

- The applicant must be either employed, self-employed, a business owner, or have a stable source of income.
- The applicant must be a citizen of Algeria (whether residing in Algeria or abroad).
- The applicant must have a stable monthly income of at least 40,000 DZD (or 1,500 EUR for those residing abroad).
- The initial "seriousness guarantee" margin starts at 10% of the property's value.
- The applicant must arrange for their salary to be transferred to Al-Salam Bank (Algeria) or set up permanent deductions from their postal account.
- The financing amount may be increased through the support of first-degree family members (parent, child, spouse, etc.).

It is worth noting that Al-Salam Bank has pioneered a public housing financing initiative in Algeria, introducing a partnership model based on "Company Ownership." Under this model upon the client's request (with the requirement that they reside in Algeria), the bank participates in the purchase or ownership of a property. Both the bank and the client jointly hold ownership of the property. The bank then rents its share to the client through the Ijarah model with an option to purchase, or through a gradual sales scheme.

The eligibility criteria for this partnership model mirror those of the conventional home financing option, including age, employment status, income level, and the necessity of salary transfer. Additionally, the following conditions must be met[39]:

- The client must contribute at least 30% of the property's value to the partnership.
- The notary must immediately pledge the property as collateral for Al-Salam Bank (Algeria) after the client receives the property transfer documents.
- The purchase of family insurance is required.
- A check from Al-Salam Bank (Algeria) must cover the remaining amount, which is to be paid to the notary appointed by the National Real Estate Promotion Agency (ENPI). The notary is responsible for transferring the property and registering the mortgage. The notary must issue a written commitment to the client, confirming the pledge of the property as collateral for Al-Salam Bank (Algeria).
- The notary must also provide the client with a confirmation of payment made to ENPI.

B. Financing Individuals Through Conventional Banks

Following the authorization to establish Islamic banking windows within conventional banks several financial institutions have ventured into the realm of Islamic banking, with a particular emphasis on housing finance.

39- Official website of Al Salam Bank: https://www.alsalamalgeria.com/ar/produits/detail-6-27-16.html

The National Bank of Algeria (BNA) was the first conventional bank to initiate this endeavor in Algeria, and the National Savings and Loan Fund (CNEP) is widely regarded as the primary housing bank in the country.

B-1. National Bank of Algeria (BNA)

The National Bank of Algeria (BNA) became the first public bank in Algeria to introduce Islamic finance products following the issuance of Law No. 20-02. It began offering these services to individuals on August 4, 2020.[40] Initially, the bank focused on real estate financing by introducing the Murabaha model. Under this model, the bank purchases a property and subsequently sells it to individuals with a pre-agreed, fixed profit margin. The eligibility criteria for accessing this financing include the following[41]:

- Algerian nationality;
- Maximum age of 70 years;
- A stable and regular income of at least 40,000 DZD.

In practice, the customer selects the property they wish to acquire, after which the bank purchases the property from a real estate developer or private seller. The property is then resold to the customer with a profit margin agreed upon in advance. The total sale price is distributed into fixed monthly instalments, with repayment terms extending up to forty (40) years. According to BNA, this financing model offers several advantages, including rapid application processing, completed within eight (8) days, and a competitive profit margin. Furthermore, the bank provides financing for up to 90% of the property's value, with repayment terms lasting as long as forty (40) years[42].

To broaden its offerings and enable eligible customers to purchase new homes, the National Bank of Algeria has also introduced a lease-to-own scheme. This program is based on a long-term lease agreement, whereby the customer selects a property of their choice[43].

At the end of the predetermined lease period, the bank transfers ownership of the property to the customer at a nominal price. Applications under this scheme are similarly processed within eight (8) days, and customers benefit from a competitive profit margin, as detailed on the bank's official website.

It is noteworthy that the National Bank of Algeria was the first to establish a dedicated Islamic banking branch, starting with the Hussein Dey Branch, followed by a second branch in Chlef

40- After obtaining a license to market Islamic banking products on Thursday, July 30, 2020, refer to the Official website of the National Bank of Algeria: www.bna.dz/financeislamique/ar, accessedJanuary 30, 2025, at 13:21.

41- Official website of the National Bank of Algeria: www.bna.dz/financeislamique/ar, accessedJanuary30 2025, at 14:21.

42- Ibid.

43- This was on September 16, 2021, through the Hussein Dey agency, which is the first agency exclusively dedicated to Islamic banking under the National Bank of Algeria, official website of the National Bank of Algeria: https://www.bna.dz/financeislamique/ar, accessed January30, 2025, at 16:49.

(ENDVP "2"). The bank has announced its intention to expand operations within this system, moving away from the 64 Islamic finance windows it operated as of early 2022. The creation of independent Islamic banking branches is aimed at ensuring a clear separation between Sharia-compliant banking transactions and conventional banking operations. This approach guarantees the distinction between funds adhering to Islamic Sharia principles and those derived from interest-based financial techniques[44].

B-2. National Savings and Loan Fund - Bank

The National Savings and Loan Fund - Bank has also embraced advancements in Islamic financing, particularly as a leader in Algeria's housing sector. The bank has introduced a Sharia-compliant financing option, known as Ijarah with an option to purchase. This financing model is based on the principle of the lease-to-own[45].

Under this scheme, the bank acquires the property selected by the customer and leases it to them with a commitment to transfer ownership at the end of the lease period. Customers are required to make periodic payments to the bank, and once all agreed-upon instalments are completed, ownership of the property is transferred to the customer. This financing model ensures a promise to transfer ownership upon full payment of the lease instalments.

The property subject to this financing must meet the following conditions[46]:

- It must be located within Algerian territory;
- It must be completed and ready for habitation;
- It must not fall under a housing subsidy program provided by public or private developers;
- It must be selected by the customer and must not be subject to a mortgage or classified as shared property.

As for individuals, the bank has outlined the key conditions for benefiting from this financing option, which are as follows:

- The applicant must be an Algerian national, whether residing in Algeria or abroad;
- The applicant must be capable of contracting in accordance with the applicable legal provisions;

44- According to a statement by the General Manager of the National Bank of Algeria, the bank also signed 03 executive contracts with Diar Dzayer Company as part of the strategic vision aimed at expanding digitization in Algeria and developing Islamic banking, These contracts include the marketing of the following products: Islamic online financing; Dar Al-Sana'ah for businesses and professionals; Dar Al-Imar and Dar Ijarah.

45- According to a statement by the marketing director at CNAP-Bank to the newspaper Echourouk, the financing operations based on the Ijara Tamlikiya formula aimed at individuals have reached 170 files, which have been deposited with the fund since the start of the operation (January 31, 2022).

46- Official website of the National Savings and Reserve Fund – Bank: https://www.cnepbanque.dz/page.php?id=islamia, accessedFebruary04, 2025, at 23:11.

- The applicant's age must range from twenty-one (21) to seventy-three (73) years at the time of applying for financing;
- The applicant must have a stable and permanent monthly net income equal to or greater than 1.5% of the national minimum guaranteed wage, i.e., at least 30,000 DZD;
- The applicant must have a minimum work experience as follows:

_ Six (06) months of permanent employment for those with an indefinite-term contract;

_ Two (02) years of employment under a fixed-term contract, with at least two (02) renewals with the same employer;

_ Two (02) years of independent professional practice;

_ Three (03) years of professional experience for traders and artisans.

According to this scheme, customers benefit from several advantages offered by the National Savings and Loan Fund - Bank, which include[47]:

- Simple and guaranteed financing with a fixed and guaranteed profit margin;
- Financing that is approved by the bank's Sharia board;
- A repayment period ranging from two (02) to thirty-five (35) years;
- Financing that can cover up to 80% of the property's value, up to a maximum of 50 million DZD;
- The option for the customer to involve a partner to assist with the lease instalments;
- After full repayment of the instalments, the ownership of the property is transferred to the customer upon paying a nominal amount to the bank.

Furthermore, the National Savings and Loan Fund - Bank, as part of its efforts to develop and modernize its services and meet the demands of a larger number of customers, is working on enabling applicants to obtain homeownership under the Murabaha scheme, known as "Real Estate Financing," pending approval from the Bank of Algeria.

2.2. Challenges in Practicing Islamic Real Estate Financing for Individuals in Algeria

In recent years, Algerian authorities have actively encouraged public banks to offer banking services in accordance with Sharia principles, taking into account the cultural and religious identity of Algerian society. This initiative aims to expand access to Islamic banking services for individuals.

However, the integration of Islamic banking within the legal framework has significantly impacted its practical implementation. In reality, Islamic banking in Algeria continues to face numerous obstacles and challenges. The housing sector has not been exempt from these difficulties, as Islamic real estate financing in Algeria has encountered multiple barriers to effective implementation.

47- Official website of the National Savings and Reserve Fund – Bank: https://www.cnepbanque.dz/page.php?id=islamia.

These challenges can be categorized into two main types, The first category consists of general obstacles that affect Islamic banking as a whole **(2.2.1)**, while the second category includes specific challenges related exclusively to Islamic real estate financing **(2.2.2).**

2.2.1 Indirect Challenges to the Practice of Islamic Real Estate Financing in Algeria

Islamic financing, in general, faces numerous obstacles, as the current implementation of Islamic banking raises multiple issues across various aspects.

These challenges primarily involve legal constraints **(A)**, issues related to the monetary policy of the Bank of Algeria **(B)** difficulties in the operational mechanisms of Islamic banking institutions **(C)**, a shortage of specialized human resources **(D)**, and the absence of a structured financial market for Islamic securities and Takaful insurance in Algeria **(E).**

A.Legal Challenges

These obstacles are primarily linked to banking regulations and tax legislation, as outlined below:

- Compliance with Law No. 03-11 on Monetary and Credit, which is based on conventional interest-based principles. Regulation No. 20-02 explicitly stipulates this requirement in Article 02, which mandates that Islamic banking operations must comply with the provisions set forth in Articles 66 to 69 of the Monetary and Credit Law. These articles have been revised and are now covered under Articles 68 to 74 of Law No. 23-09 on Monetary and Banking Regulations.
- Tax law also presents a significant obstacle to Islamic financing, as it does not account for the specificities of Islamic financial transactions. For instance, under Mudaraba (profit-sharing financing), an Islamic bank is required to pay two profit taxes (IBS)one on the profits of the Mudaraba company and another on the bank's own profits, which include the profits of the Mudaraba company. This results in double taxation, increasing the tax burden on Islamic banks. Additionally, Islamic banks are subject to double taxation due to the professional activity tax (TAP).

B.Challenges Related to the Monetary Policy of the Bank of Algeria

These challenges primarily involve issues related to the use of the legal reserve ratio, the rediscount rate, and the inability to access the central bank during liquidity shortages.

- Use of the legal reserve ratio: When the Bank of Algeria implements the legal reserve ratio as a monetary policy tool, Islamic banks and Islamic banking windows are unable to benefit from interest earned on these reserves. As a result, a portion of their funds is held without generating

returns, which reduces their investment capacity and ultimately affects their revenues and profitability[48].

In February 2019, the Bank of Algeria raised the legal reserve ratio to 12% of all deposits[49] leading to a decrease in returns on deposits and, consequently, a reduction in depositor profits.

- Use of the Rediscount Rate: The rediscount rate allows conventional banks to obtain loans from the central bank, particularly during liquidity shortages. However, Islamic banks and Islamic banking windows cannot benefit from rediscount rate policies, as they conflict with Sharia principles.
- Inability to Access the Central Bank During Liquidity Shortages: When a conventional bank faces liquidity shortages, it can turn to the central bank, which acts as the lender of last resort. However, Islamic banks cannot utilize these options. For instance, they cannot access marginal lending facilities, which the Bank of Algeria offers to commercial banks to cover short-term liquidity needs for 24 hours in exchange for a predetermined interest rate. Likewise, they cannot benefit from interbank market facilities, as these transactions are interest-based, which is prohibited under Islamic finance principles[50].

C. Challenges Related to the Operational Mechanisms of Islamic Banking in Algeria

Islamic banking operations in Algeria are conducted through a window-based system. Islamic banking windows are specialized units established within conventional banks or financial institutions, exclusively dedicated to offering Islamic banking services and products.

Although Regulation No.20-02 established certain rules to ensure the independence of Islamic banking windows from the other structures within the bank, achieving complete separation between the funds of Islamic windows and those of the conventional interest-based banking system remains highly challenging in practice.

For this reason, some scholars argue that the establishment of Islamic banking windows is merely an opportunistic strategy to enter a new market and maximize potential profits, raising concerns about the legitimacy of these windows within the Islamic finance framework.

D. Challenges Related to the Shortage of Specialized Human Resources in Islamic Banking

Algerian banking regulations require banks offering Islamic financial products to establish a Sharia Supervisory Board, which is expected to be composed of highly qualified experts in the field. However, the law does not merely require members to hold university degrees in Islamic law (Sharia);

48-Mustapha Al-Arabi, Nadir Troubia,"Localization of Islamic banking in Algerian banks: Challenges of application and requirements for success in light of Regulation No. 20-02",Journal of Al-Bachaer Economic Vol. 06 Issue 02, Faculty of Economic Sciences, Commercial Sciences and Management Sciences, University of Bechar, 2020, p. 259.

49- Pursuant to Article 3 of Instruction No. 01-2019, dated February 14, 2019, concerning the mandatory reserve system. Available on the official website of the Bank of Algeria: https://www.bank-of-algeria.dz.

50- Mustapha Al-Arabi, Nadir Troubia, *op. cit.*, p. 259.

rather, they must be fully competent professionals with in-depth expertise in Islamic banking operations and financial transactions jurisprudence.

In reality, however, this expertise is not always evident among the members of these supervisory boards within Algerian banking institutions.

E. Challenges Related to the Absence of a Financial Market (Stock Exchange) and a Takaful Insurance Market

The success of Islamic banking requires the presence of Islamic insurance institutions and a dedicated Islamic financial market. One key component is the issuance of Sharia-compliant Sukuk (Islamic bonds), which serve as a central element in the structure of an Islamic financial system.

Additionally, Algeria lacks an accounting system tailored to the specific requirements of Islamic banking. The existing accounting framework, which is based on conventional financial principles, is not compatible with the operational needs of Islamic banking institutions.

2.2.2. Direct Challenges to the Practice of Islamic Real Estate Financing in Algeria

Islamic housing finance presents certain sector-specific challenges that have made conventional housing loans more widely used, despite the prohibition of interest-based financing. This is largely due to the advantages offered by conventional banks in housing finance compared to Islamic banks.

Among the key challenges faced by Islamic housing finance, the most significant issues include:

- The absence of an off-plan sales (pre-construction purchase) model in Islamic banking **(A)**.
- The higher profit margins associated with Islamic financing **(B)**.

A.The Absence of an Off-Plan Sales Model in Islamic Real Estate Financing

Islamic mortgage loans do not allow for off-plan sales (pre-construction purchase agreements). This financing model involves the transfer of property ownership from the real estate developer to the buyer in parallel with the progress of construction, while the buyer commits to making payments as the project advances.

The reason for this restriction lies in the operational structure of Islamic banking, where the bank must first purchase and acquire ownership of the property before selling it to the client through a cost-plus financing or lease-to-own financing.

As a result, many individuals are unable to benefit from Islamic financing to acquire housing units developed under real estate promotion projects,this is because housing acquisition under these projects typically requires subscribing to a housing program and making installment payments as construction progresses. In other words, clients do not hold ownership contracts but rather subscription agreements, which prevents the bank from purchasing the property outright.

Additionally, this issue presents another challenge: Islamic and conventional banks in Algeria lack a dedicated real estate portfolio. As a result, they must purchase housing units upon customer request,

acquire ownership, and then resell them, a process that can be time-consuming and may delay the execution of the transaction.

B.High Profit Margins in Islamic Real Estate Financing

Given the high cost of housing and the inability of many individuals to afford homeownership, a significant number of people rely on banks for financing their property purchases. However, due to the high interest rates imposed by conventional banks on mortgage loans, the state intervened by capping interest rates to prevent excessive charges.

As outlined in legal provisions, banks cannot exceed interest rates ranging between 1% and 3%, as previously mentioned. This measure was introduced within the framework of subsidized mortgage loans, a program through which the state provides financial assistance to low-income individuals, granting them the opportunity to access housing.

In Islamic financing, it is well known that Islamic banks, as well as conventional banks offering Islamic financial services through dedicated windows, rely on profit margins instead of interest, which is prohibited under Sharia law. However, the profit margin charged by these institutions is often significantly high. In Islamic mortgage financing, the annual profit margin typically ranges between 7% and 7.5%[51], with some exceptions.

The main reasons for these higher profit margins include the risks associated with the financing process and the tax burden imposed on the bank due to its ownership of the property before reselling it to the client through lease-to-own financing or cost-plus financing contracts.

According to legal provisions regulating Islamic financing, including Regulation No. 20-02 on banking operations related to Islamic finance and Instruction No. 03-2020 defining Islamic banking products, there is no fixed or capped profit margin. Instead, the profit rate is left to the discretion of banks, which determine it through agreements with clients.

This approach contrasts with conventional financing, where government authorities have intervened to regulate and cap interest rates.

3. CONCLUSION

The Algerian Constitution enshrines the right of individuals to access housing, and the state is committed to ensuring the realization of this right. This principle, reaffirmed in all constitutional texts, has been deeply rooted in the political, social, and economic policies implemented by the Algerian government. These efforts have been reflected in the development and execution of various programs and initiatives aimed at achieving this goal while promoting social cohesion.

One of the most significant measures taken in this regard was the integration of real estate promotion into the legal framework. This development allowed banks to play a key role in financing the sector,

51- For example, Al Baraka Bank offers a profit margin ranging between 7% and 7.5%.

either through conventional mortgage loans or Islamic financing solutions, particularly through Islamic real estate banking products such as lease-to-own financing and (cost-plus financing).

Both conventional and Islamic financing have played a crucial role in developing Algeria's real estate market and advancing the housing sector, enabling a large number of individuals to acquire suitable housing. However, despite these achievements, certain legal and operational shortcomings still need to be addressed. To enhance the effectiveness of the system, the following recommendations should be considered:

- Encouraging greater participation of financial institutions and private banks in granting mortgage loans, as current practices indicate that certain public banks dominate the real estate financing market in Algeria.
- Simplifying the procedures for obtaining mortgage loans, particularly by reducing administrative requirements and shortening the processing time for loan applications.
- Issuing all necessary regulatory texts related to real estate promotion loans, ensuring benefits for both borrowers and financial institutions.
- Addressing the various legal and operational challenges associated with Islamic banking operations, particularly the high profit margins, the lack of real estate portfolios within banks, and the shortage of qualified professionals in the sector.
- Establishing dedicated Islamic banks specialized in Islamic real estate financingrather than relying on the Islamic window system currently used by Algerian banks.
- Developing specialized legal frameworks for Islamic banking to address the misalignment between current banking laws and the principles of Islamic Sharia.

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