

Legal bases for the exploitation of agricultural property and ways to protect it

الأسس القانونية لاستغلال الملكية الفلاحية وسبل حمايتها

SOUILEM Said¹, BEN RAMDANE Abdelkrim²

¹ Regional Tourism Laboratory and Institutions, Faculty of Law and Political Science, University of Ghardaïa (Algeria), souilem.said@univ-ghardaia.dz

² Faculty of Law and Political Science, University of Ghardaïa (Algeria), benramdane.abdelkrim@univ-ghardaia.dz

Received: 19/01/2025

Accepted: 11/03/2025

Published: March /2025

الملخص:

العقار الزراعي من أهم الموارد الطبيعية التي تعتمد عليها الدول لتحقيق الأمن الغذائي والتنمية الاقتصادية المستدامة، لذلك فإن إرساء أسس قانونية واضحة لاستغلال وحماية هذه الأراضي أمر ضروري، وفي الجزائر تم وضع قوانين وأنظمة لتنظيم استغلال العقار الفلاحي وحمايته من التعديات، وقد أعيد تقييم نهج استغلال العقار الزراعي، حيث تم تغيير فكرة إدانة حق الانتفاع بالأراضي الفلاحية وتبني فكرة استغلالها المؤقت عن طريق الامتيازات، بهدف تعزيز الاستثمار الإنتاجي والاستغلال الأمثل للأراضي.

لقد أثار استغلال الأراضي الفلاحية عن طريق الامتيازات العديد من المشاكل القانونية، مما دفع السلطات العامة إلى التدخل والبحث عن حلول قانونية مناسبة لحل المواقف التي تعيق الاستخدام الرشيد للأراضي الفلاحية وترسيخ الأمن العقاري للمستغلين الشرعيين.

الكلمات المفتاحية: عقد الامتياز الفلاحي، العقار الفلاحي، استصلاح الأراضي، الحماية القانونية، المستثمرة الفلاحية، الاستثمار

Abstract:

Agricultural real estate is one of the most important natural resources countries depend on for food security and sustainable economic development. Therefore, establishing clear legal bases for using and protecting these lands is essential. In Algeria, laws and regulations have been developed to regulate the exploitation of agricultural real estate and protect it from encroachments. The approach to the exploitation of agricultural real estate has been re-evaluated, as the idea of perpetuating the usufruct of agricultural land and adopting the idea of its temporary exploitation through concessions has been changed, with the aim of promoting productive investment and optimal land use. Exploiting agricultural land through concessions has raised many legal problems, prompting public authorities to intervene and seek appropriate legal solutions to resolve situations that hinder the rational use of agricultural land and establish real estate security for legitimate exploiters.

Keywords: Agricultural concession contract, agricultural real estate, reclamation, legal protection, agricultural investments, investment

Introduction:

Agricultural property has been and still is one of the most important challenges and profitable bets that it relies on to move the wheel of economic development, as the experience of investing in it has proven successful in many countries.

Given Algeria's large ownership of agricultural real estate, the legislator has sought since independence to provide a specific legislative framework to regulate and manage its exploitation. This is evident through its adoption of agricultural development policies, which varied according to the political and ideological orientation of the State, which is the main reason for its abandonment.

What concerns us in this context is the multiplicity of legal frameworks established by the legislator regarding the exploitation of this specific category of real estate, given its social and economic functions when optimally exploited. This requires establishing a set of legal guarantees to protect them, the most important of which is the need to exploit agricultural real estate.

The ownership of agricultural real estate, whatever its classification, is subject to this responsibility and legal obligation, even when it comes to private property, which constitutes a restriction and deviation from the model rules governing private property.

Real estate ownership manifests itself in various forms, and ownership of agricultural land is the most important, as it seeks to achieve self-sufficiency in food production and eliminate all forms of dependency.

The Algerian legislature, for the protection of agricultural lands, has developed several mechanisms represented in lawsuits and administrative bodies.

This problem derives its importance from the importance of the agricultural sector, as agricultural land is the leading resource on which people depend for their food, in addition to the fact that preserving agricultural land in Algeria is a necessity necessitated by the interests of future generations and the need to move from a fragile economy based on the proceeds of surplus oil revenues to a diversified economy that helps enhance the economic level of the country.

The problem we raise in this research paper is :

What are the legal mechanisms for protecting agricultural property?

To answer the problem posed in the study of the subject, we divided the study into two main axes, so we touched on the legal foundations for the exploitation of agricultural property in the first axis while we address ways to protect agricultural property in the second, according to the following plan:

- The first axis: Legal bases for the exploitation of agricultural real estate
 - First: Reclamation for the acquisition of agricultural real estate property

- Second: Exploitation by agricultural concession
- The second axis: Ways to protect the agricultural property
 - First: Administrative Ways to Protect the Agricultural Property
 - Second: Judicial means to protect the agricultural property

1-First: Reclamation by possession of agricultural real estate property

Law No. 83-18 included the concept of reclamation. Article 08 of the law states that reclamation means any work that would make a land suitable for cultivation and exploitation. These works can focus on water filling and preparation, land purification and preparation, watering and allocation, planting and soil conservation to fertilize and cultivate it.

That is, when the agricultural contractor carries out the above-mentioned works, he is entitled to hold ownership of the agricultural property according to the reclamation pattern; that is, he obtains the revoking condition of ownership according to the aforementioned law No. 83-18, and this is after inspecting the reclamation project. Suppose the reclamation conditions are met according to Article 08 above. In that case, the assignment of agricultural land becomes mandatory to the local communities and the governor, and any refusal to do so leads the judge to monitor the legitimacy of the refusal decisions

1.1- Conditions for reclamation

The Implementing Decree of Law No. 83-18² was issued under No. 83/724, as it³ included conditions related to the lands subject to reclamation, as they constitute the base on which agricultural investment is practised, and also included conditions enjoyed by the reclaimer (the owner of the reclamation).

- a) **Conditions of land subject to reclamation:** Among the conditions adopted by the Algerian legislator towards the land subject to reclamation are what is stated in Law 83-18 and Law 87-19⁴.
- In Law 83-18, the lands subject to reclamation must be national property located within desert areas and plentiful lands, provided that water is available. However, Law 87-19 was issued.
 - According to Law No. 87-19, the use of agricultural land belonging to the national property is regulated, and the rights and duties of producers and private individuals are determined, as is the case with the Civil Code.

Law 87-19 abolished the system of self-management and granted agricultural continuities to permanent workers, managers, and framers. This law also applied to agricultural lands that were previously inhabited or Algerians who held positions hostile to the Algerian revolution or the previous socialist system.

Law No. 87-19 did not repeal what was stated in Order No. 71-73, which included the

system⁵ Of the agricultural revolution, but it was repealed by Law No. 90-25, which⁶ Includes the Real Estate Directive Law. This law referred to the application of its provisions to agricultural lands that were subject to the system of the agricultural revolution, either in the manner of annexing or nationalizing these lands or that became under the protection of the State.

In summary, after the agricultural property was subject to the⁷ The aforementioned Law 87-19 and then the procedures for the recovery of agricultural land were enacted under Law 90-25, which includes the Real Estate Guidance Law.

- b) **Conditions for the recipient:** According to Article 03 of Law 83-18,⁸ This stipulates that " every natural person who enjoys his civil rights or a legal person affiliated with the cooperative system, of Algerian nationality, may own agricultural land or be subject to it by implication to the legal conditions stipulated."

In addition to what is stated in Article 09 of the same law, the reclamer has the right to complete the buildings and shops necessary for the exploitation, including the housing allocated for the continuation. However, it remains restricted by the text of Article 11 of the same law, which states: "The owner shall not be granted a period of five years, except in the case of force majeure, to complete the land reclamation program.

However, suppose the reclamation occurs only partially upon the expiry of the aforementioned period. In that case, special measures shall be taken per the modalities determined by the decree".

As for the procedural and technical aspect, the owner of the reclamation is represented first in the documents required in the reclamation file, which are :

- Selection and determination of the plot of land under reclamation.
- Monitoring the value of the investment allocated for reclamation.
- Technical and financial feasibility study of the project.
- Preparation of reclaimed land plan.

The file is deposited in the Department of Real Estate, concerned with reclamation, before the competent technical committee, which includes representatives of agriculture, irrigation, forestry, and state property. Provided that it expresses its opinion within one month, the file is transferred to the regionally competent municipal people's council. Upon acceptance, the reclamation must be completed within five years under the aforementioned conditions.

1.2- Exploitation by agricultural concession

1995 was characterized by the organization of socialist agricultural farms, the establishment of collective and individual agricultural investments, and the issuance of law No. 87-19, followed by the issuance of the first law related to real estate guidance under No. 90-25.⁹In the same year, that is, in 1990, the nationalized lands were returned to their original owners, and in 1995, the returned agricultural lands were placed under the control of the State and the lands that were the subject of a gift to entrust the task of managing the agricultural lands to the National Office, for agricultural land, which was established in 1996so that the

year immediately following (1997) dedicates the reclamation of agricultural land belonging to the private property of the State through concession.

All this accelerated chronology has approved the direction of the Algerian State to invest in the agricultural sector, clearly in life, its foundations and main pillars on agricultural property. In the horizon of ten years, the first directive law in the agricultural field was issued, which is considered a miniature constitution for the State's strategy in the field of agricultural investment, which encourages agricultural investment through concession and abandonment through stages without cancelling investment through reclamation, and this monitors the privileges and incentives of transferring the right of permanent use of agricultural investments to the State's private property.

1.2.1-The concept of agricultural concession :

A peasant concession is a pattern of exploitation of private property agricultural land. For the State, it was initially considered an administrative contract, as administrative contracts aim to manage public utilities and achieve public interests.

As defined in Article 3 of Law 08/16, which includes the Agricultural Guidance Law¹⁰ The third paragraph is " a contract under which the public authority grants a person the right to exploit agricultural real estate for a specified period in exchange for the payment of an annual royalty ."

1.2.2-Effects of the Franchise Contract :

In this element, we will address two aspects: the effects of the franchise contract on the state franchising authority and the effects of the franchise contract on the franchised investor.

a) Effects of the Franchise Contract on the State Franchising Authority :

Arrange for the holding of antiquities vis-à-vis the State to preserve the territory, namely:

- The authority of the State must monitor its optimal exploitation, and this is facilitated by field visits by the agents of the National Office of Agricultural Land to ensure respect for Law 10/03, as well as the terms and conditions book concluded between the two parties.
- Exercising the right of pre-emption in the event of waiving the concession right, the death of the investor, or the expiration of a year without the heirs appointing a representative on their behalf. Investors holding a concession for the same agricultural investment or the National Office of Agricultural Lands, if necessary, may exercise this right by the applicable legislation¹¹.
- Administrative control supervising the files to convert the permanent usufruct right into a National Bureau of Agricultural Lands concession. The Bureau also supervises allocating agricultural lands to concessions while establishing individual agricultural investments.
- The authority of the State, which includes imposing penalties for the investor's non-compliance with the obligations stipulated in Article 29 of Law 16/08, such as the conversion of the agricultural destination of land and surface property, the non-exploitation of agricultural land and surface property during one year, the State of sublease, the non-payment of royalty for two consecutive years, or building on agricultural land without a license, all of which constitute violations of the obligations¹².

The National Bureau of Agricultural Lands intervenes when the concessionaire fails to fulfil its obligations stipulated in the above cases and exercises its supervisory authority by appointing a judicial report to investigate violations and prepare a report. The Bureau issues a warning to the concessionaire, except in cases of non-payment of the royalty for a period of two years, in which case two warnings must be issued, separated by one month, where the administration, at its discretion, terminates the administrative contract after adhering to the procedures stipulated in Article 28, paragraph 01 of Law 10/03¹³, which is considered a change in the agricultural character as a misdemeanour punishable by law, and then it must notify the regionally competent public prosecutor.

b) Effects of the Franchise Contract on the Franchised Investor:

The results of the franchise agreement are reflected in the collection of the rights and obligations assumed by the investor who owns the franchise, and the subsequent rights determined by the legal texts are as follows:

- Determination of concession rights related to agricultural land and surface properties and their exploitation.
- Enforcement of the right to assign and transfer the concession to the heirs to prevent its survival without taking advantage of the assignment to the right holder, especially the general successor, and the availability of a second condition, which is disability or retirement.
- The right to obtain a mortgage from banks and financial institutions to obtain loans for agricultural projects¹⁴, or to obtain assistance from the State, such as interest-free loans financed from the public treasury.
- The right to obtain several franchises to promote agricultural investors and establish an individual investor.
- The right to conclude partnership agreements with natural persons holding Algerian nationality or legal persons subject to Algerian law¹⁵.

As for the obligations that the franchise produces on the Franchised Investor, they are as follows:

- The beneficiary must manage the individual investor directly, while the collective agricultural investor requires a formal contract to appoint a representative to manage the investment, facilitate communication between investors, and determine each investor's participation in the investment's work.
- His keenness to maintain the continuity of the investor and not to transform her agricultural character, as any termination of the concession contract or the death of the member, does not hinder the operation of the investor who enjoys legal personality.
- Commitment to conclude insurance contracts related to agricultural activities for those who have received support or assistance from the State.
- The obligation to pay the royalty, which is the most important obligation of the concessionaire, as stipulated in Article 04, paragraph 01 of Law 10/03.

2- The second axis: Ways to protect the agricultural property

Due to the specificity and sensitivity of agricultural lands, the legislator has given them special protection and care through the enactment of many basic laws, including the Real

Estate Guidance Law, the Preparation and Reconstruction Law, the State Property Law, the Agricultural Concession Law, and others.

To ensure that this characteristic is not merely a trait, the State has been forced to develop methods and strategies for preserving the peasant character.

2.1- Administrative Ways to Protect the Agricultural Property

Given agricultural lands' social and economic importance, the Algerian legislature has imposed special protection for these areas to ensure their preservation. Article 36 of the Land Law stipulates that¹⁶The law allows converting any fertile or very fertile agricultural area to a class of developable land. The legislation also provides for a series of technical and financial constraints that must precede the completion of the transfer.

2.1.1- Maintaining the agricultural character of agricultural land belonging to private property :

The Algerian legislature obligated the owners of agricultural land and those with subsidiary rights in rem to maintain the agricultural character of their land in response to the increasing demand for agricultural land, changing its agricultural destination, and building on it.

The legislator has established a strict control system for the transfer and development of agricultural land, imposing prior licenses before starting any activities that have nothing to do with agriculture.

a) Conversion of agricultural land and building on it :

The administration's refusal to conclude property contracts resulted in large areas of agricultural land being turned into construction workshops due to peasants abandoning their properties. This situation has raised fears of urbanization in agricultural areas and the consequent loss of vital economic returns. This concern is particularly prominent after Algeria accedes to the World Trade Organization, which entails strengthening the agricultural sector within the framework of the green arena, including land reclamation, livestock breeding, scientific research development, and irrigation water provision.

-Conversion of very fertile or fertile land:

The conversion of agricultural land classified as fertile or very fertile into developable land requires the issuance of a legislative document to determine the plot of land concerned with the process, determine the technical and financial constraints associated with the conversion process, and determine the value of compensation due for the depreciation of the land. Subsequent regulatory texts shall ensure the transfer methods and procedures by Articles 36 and 37 of the Real Estate Directive Law¹⁷.

-Conversion of other varieties of land :

The regulatory documents specify the techniques and procedures for the transfer of agricultural land that is not classified as very fertile or fertile, as well as the value of compensation for loss of value for the benefit of the state and local authorities¹⁸.

b) License for the division of agricultural land:

The division or subdivision of agricultural land shall be subject to the rules of the reference area of the agricultural investor on which it is based. Accordingly, Executive Decree 97-490 was issued, which determined the criteria for the division of agricultural land.¹⁹

- **License application:** The license application is interspersed with several processes:
 - ✓ **Processes involved:** Each real estate transaction involves the transfer of ownership of agricultural land, either remunerated or free of charge. The latter includes estate division activities.

Suppose the purpose of the transaction is to enter into real estate with a reference area less than that stipulated in Article 3 of the Executive Decree. In that case, the transaction shall be legally prohibited.

In addition to the terms of reference space, it is necessary to stipulate that the minimum number of partners for the division of investors benefiting from collective agricultural investments under Law 87-19 shall be at least three.²⁰²¹

- ✓ **Procedures followed during the process of dividing agricultural land:** To facilitate the expansion of state control over transactions involving agricultural real estate, which leads to the division of these properties, the legislator issued a decision requiring the reporting of all real estate transactions that include the transfer of ownership of agricultural land, whether paid or unpaid, to the authority in charge of agricultural land²², and the methods were determined as follows:
- **Submitting the division request:** When he intends to divide his agricultural land, the owner must respect the reference area specified in Executive Decree No. 97-490 by submitting a division request to the Directorate of Agricultural Interests to ensure the possibility of division. After obtaining permission, he goes to the notary to formalize the transaction.²³.

The notary assigned by the parties to edit the content of the transaction in an official form and sends it to the agricultural departments of the State concerned with agricultural land, a request that includes information related to :

- The owner of the application and the identification of the owner.
- Determining the property subject of division with its location and area in a plan showing the boundaries of the land plot and determining the number of plots to be constructed.
- Determining the pieces to be constructed and indicating their area.
- The nature and type of activity practised.
- The nature of the title deed.

Explanation of the reason for the division, whether it is the division of inheritance or exit from the common, etc.²⁴ .)

- **Investigating the division request:** The Directorate of Agricultural Interests carefully examines the request for the division of agricultural land to ensure that the area share is adhered to, and the license is not granted if the area of the division is less than the specified reference area, and this is stipulated in Article 05 of Executive Decree No. 97-490²⁵

- ✓ **Response to the division request:** After the investigation, the Directorate of Agricultural Interests will decide whether to reject or accept the request, which will be responded to within four months from the date of its filing.

The principle is that it is not enough for the administration to merely object and reject; instead, it must exercise the right of administrative pre-emption by the National Office of Agricultural Land. As for the right of private real estate ownership, it is enough to reject the transaction. The intervention of the National Office of Agricultural Land is limited to exercising the right of pre-emption if it is proven that private agricultural land is not exploited, as well as for state agricultural land in²⁶ accordance with the text of Article 50 of Law No. 90-25 containing the Real Estate Guidance Law²⁷.

2.1.2- Obliging the owner to exploit agricultural land:

The general regulations governing real estate stipulate that the new owner may not prejudice the validity of the land for investment, change its agricultural destination, or divide it in a way that conflicts with the applicable standards for the reference area. This is especially true since Executive Decree 97-484 emphasizes the need to exploit agricultural land and prove this through the Agricultural Interests Committee.

The committee shall also conduct the necessary investigations, prepare a report proving the condition of the land, and then submit it to the governor and the Minister in charge of agriculture²⁸, to prove that the land is not exploited by its owners within a period not exceeding 06months²⁹ From the same decree. If this period expires and the landowner does not exploit the land, he may start exploiting it within one year³⁰.

Through Law 16-08 on agricultural guidance, the Algerian legislator has established new.³¹ Mechanisms and a unique framework for agricultural real estate, agricultural land and agricultural-oriented land, whether they belong to the State's private or private property.

Thus, to understand and manage the agricultural estate, the following considerations stand out:

- An index that determines the capabilities of agricultural or peasant-oriented real estate properties is used as a basis for state intervention.
- A map that identifies agricultural lands and lands with a peasant orientation so that the methods and conditions of distinguishing these lands and their applications or the methods of managing this real estate index remain unclear for their application through regulation.

Article 14 of this aforementioned law explicitly stipulates the absolute prohibition of all non-farm uses of land classified as agricultural or peasant land.

2.2- Judicial means to protect the agricultural property

Since the agricultural investor is a civil company³², some provisions related to the exploitation of agricultural land through a concession contract may lead to disputes, and by reference to Law 10-03 and Executive³³ Decree 10-326³⁴ The two documents clearly refer to scenarios in which it is permissible to resort to the judiciary, but they do not specify the competent judicial authority. According to the Civil and Administrative Procedures Law and the National Property Law, investments made under a concession are considered private

national property. Thus, disputes can be classified into disputes that fall within the jurisdiction of the ordinary judiciary and those that fall within the administrative judiciary's jurisdiction. We will show this in detail below.

2.2.1- Ordinary Judiciary

According to the text of Article 45 of the Real Estate Guidance Law, agricultural activities have a civil nature, while Article 513 of the Civil and Administrative Procedures Law stipulates that³⁵ The real estate section of the court is competent to consider disputes between investors among themselves or with others, and disputes can be classified into:

a) Disputes of the Franchise Contract Holders Investors Among Them:

According to Article 513 of the Civil and Administrative Procedures Law, the real estate department of the court shall be competent to hear disputes between peasant exploiters regarding the agricultural lands belonging to the national property, their occupation and exploitation, by what is stipulated in Article 514 of the same law that the real estate department shall consider lawsuits filed by one or more members of the agricultural group due to violation of legal duties or the agreement, a lawsuit must be filed regarding the distribution of profits by the plaintiff investor or more against the representative of the agricultural investor³⁶.

Usually, an expert is appointed to transfer the investor, specifying the expert's responsibilities in the judgment and in accordance with the terms of the agreement binding on them. However, suppose the plaintiff acts as an agreement representative of the investor. In that case, he may file a lawsuit in his name against all members of the investor, and this lawsuit may be filed by one of the heirs if the privilege is transferred to them and one of the heirs refuses to hand over the profits.

The dispute may arise from violating legal obligations or the agreement, and the investor's representative may initiate it against the member who did not fulfil his obligations. The dispute may relate to the protection of the agricultural investor, and the representative of the agricultural investor or one of the members has the right to file a lawsuit against any party that exceeds the real estate base of the investor in order to protect the concession rights without requiring the intervention of the State in the dispute as they are the owners of the control, in³⁷By Article 513 of the Civil and Administrative Procedures Law. An inspection report is required to prove the violation and infringement.³⁸

There is a dispute related to the exercise of the right of pre-emption according to one of the cases referred to in Article 25 of Law 10-03

Disputes may arise over the determination of heirs by the judiciary, especially when the heirs fail to appoint a representative to assume the rights and obligations of the deceased in the collective or individual agricultural investment or if one of the heirs does not waive his rights or assign them to others within the legal period specified for one year. Article 53 of the³⁹ The aforementioned Law 30-90 stipulates that the National Agricultural Land Office shall be notified to the competent authority.

When assigning in-kind rights to inherited property, the State is prohibited from taking measures to assign its funds. Article 53 proves this, confirming that the money of these properties is to be included in private national property, and therefore, it is impossible to

apply them.

b) Disputes between the owners of the concession contract, investors and third parties:

By Article 513 of the aforementioned Law, the Real Estate Department shall have the jurisdiction to dispute, occupy and exploit the agricultural exploiters and others regarding the lands belonging to the national property.

A dispute may arise between the agricultural investor and any individual or entity subject to private law in connection with the implementation of contractual obligations of the investor, compensation for damages caused to others, or any other dispute except for challenges to the ownership of the land. The ordinary judiciary is competent to file the lawsuit in the name⁴⁰ of the investor and not in the name of its members and represented by its president⁴¹.

According to Article 45 of the Real Estate Guidance⁴² Law, all the activities of the agricultural investor are classified as civil works, and a dispute may arise between the investor and the partner during the implementation of the partnership contract, which may lead to a lawsuit by the investor or others and may include those disputes related to the distribution of profits, the implementation of the contract, its termination or invalidation with compensation, as the partnership contract is classified as civil contracts that are subject to the general principles governing civil contracts.

This is subject to the principle of *pacta sunt servanda*, as the investor and the partner agree under the partnership contract on its duration, which must not exceed the remaining period of the concession. It is carried out under a formal contract under penalty of nullity; that is, the judge here raises the nullity on his own initiative.

Disputes may arise over the investor's debts to financial institutions, especially about debt claims with compensation, which may continue until the debt is settled through seizure procedures. It is important to note that a lien order exclusively benefits financial institutions, while other creditors may withhold an investor's profits only if the debt is registered in the investor's name. Thus, the procedures for seizing the debtor's assets with third parties are implemented, as Law 10-03 stipulates a separation between the funds of the investor and the investor by granting them legal personality.⁴³

According to Law 10-03, the lender cannot claim its rights at the end of the concession period for one of the cases stipulated in Article 26, with the exception of the amount of compensation for surface property determined by the State Property Administration. Therefore, it can exercise its rights from the concession only when it is seized.

Disputes related to the agricultural investor also arise when the State exercises the right of pre-emption when the State is a party to it, where the State represents the diwan, which is a public institution of an industrial and commercial nature, subject in terms of the rules of jurisdiction to the ordinary judiciary in its relations with private persons⁴⁴.

Disputes may also arise over the real estate base raised by others against the investor, and they are focused on the investor's infringement on part of the property.

2.2.2- Administrative Judiciary:

The Algerian legislator has focused on the organic criterion to determine the administrative nature of the dispute and determine the sole jurisdiction of the administrative courts, as this body is authorized to issue first-instance judgments subject to appeal in all

disputes involving the State, the wilaya or any other public administrative body, as stipulated in Article 800 of Law 08-09⁴⁵, and the cases can be classified into:

a) Property Entitlement Disputes

The legal basis for the claim of entitlement to property is Article 677 of the Civil Code, which affirms that no one may own property except in the cases and conditions stipulated in the law. This is one means of controlling and protecting property rights.

This may be related to a dispute over the real estate base of the agricultural investor, where the non-agricultural investor disputes the ownership of the land, confirming that it is wholly or partially his property. Or the lawsuit filed by a third party may relate to the encroachment of the investor on his private property, either partially or adjacent to the investor, and part of his property has been incorporated within the investor and requests that the encroachment be lifted and removed.

These cases can also be classified as property questioning lawsuits. If a lawsuit is filed, it must be filed before the competent administrative judiciary against the State Property Directorate in accordance with articles 10 and 125 of Law 90-30 and article 183 of Executive Decree 91-454, which contain conditions for the management of the State's private and public national property.⁴⁶ The Supreme Court, in its ruling issued on April 28, 1999, file No. 186635, by the provisions of Law 87-19 in this direction⁴⁷. Under Law 90-30, the mayor, the governor, and the Minister of Finance have the authority to represent the State in judicial matters, whether as plaintiffs or defendants in disputes related to private property owned by the State. Article 183 of Decree No. 91-454 confirms that the Minister of Finance is authorized to supervise litigation of all kinds as either plaintiff or defendant about all state-owned property.

The Minister of Finance may, by Article 184 of Decree No. 91-454 mentioned above, assign the employees of the State Property Department who are legally authorized to represent him in lawsuits. Each time a new Minister of Finance is appointed, a decision⁴⁸ is issued under a general power of attorney for the Directorate of State Property to represent the State before the judiciary. If the lawsuit is not filed against the Minister of Finance represented by the Director of State Property, by Article 201 of Law 08-09, and the judge, by his positive role, requests the parties to include the owner of the control, as the lawsuit relates to property rights. When the procedures are completed, the lack of jurisdiction is declared. Thus, the real estate judge declares that the lawsuit was improperly addressed and, therefore, inadmissible because it was brought in an incapacitated capacity.

A dispute may also arise by the State regarding the expulsion of the investor from the agricultural investor at the end of the concession right for any reason, as stipulated in Article 26 of Law 10-03 when the investor refuses to abandon the investor. This lawsuit relates to the right of ownership due to the effects of the expiration of the concession right represented in the State's recovery of the land granted to the concession and its surface property in the State it is in. A lawsuit subject to the payment of late royalties with compensation can also be expected before the administrative judiciary⁴⁹.

b) Disputes raised against the actions of the management:

According to Law 10-03 and Executive Decree 10-326, it is found that administration has been granted the authority to make decisions in the following cases:

- The decision to cancel the concession if the investor does not comply with his responsibilities by the required procedures stipulated in Article 28 of the same law⁵⁰. The investor has the right to challenge the cancellation decision issued by the State Property Department by filing a lawsuit against the Minister represented by the Director of State Property, by Articles 09 and 125 of Law 90-30 and Article 183 of Decree No. 91-454. The administrative courts shall have jurisdiction to adjudicate the dispute by Article 800 of Law 08-09.
- The decision to cancel the usufruct right if the producers do not submit the documents related to the transfer to a concession, along with the heirs, is made by Article 30 of the law and Article 9 of the same decree. The governor has the authority to cancel the concession right, and the aggrieved investor may file a lawsuit before the administrative judge to challenge this decision while adhering to the specified deadlines.

If the filing of the lawsuit does not result in the suspension of the execution of the contested administrative decision, which leads to the return of agricultural land and surface property, the investor has the right to request a stay of execution⁵¹. To preserve his rights and enable him to implement the administrative judgment in his favour if the judicial authority decides to request the cancellation.

- The decision to refuse the conversion of the usufruct right to a concession by the text of Article 801 of the⁵². The aforementioned decree stipulates that for individuals whose files require additional information or verification of the documents or facts submitted, these files shall be presented to a state committee, which, after completing its review, either approves or rejects the file. In this case, the concerned party shall be notified of the refusal to grant the concession by a reasoned letter from the governor, with a copy sent to the Bureau, by Article 08. The concerned party affected by the refusal decision shall⁵³. He submitted his complaint against the State, considering that the state committee headed by the governor rejected the application.
- The decision to determine compensation for surface property upon the expiration of the concession right by Article 26 of the aforementioned law. The person affected by the compensation decision by the same article may appeal to the competent judicial authority against the amount of compensation for the surface property as decided by the State Property Administration.

The case seeks a comprehensive judicial review in which the plaintiff challenges the amount of compensation awarded to him, not in an attempt to cancel an administrative decision. The party against which the lawsuit is filed is the same in the event of a dispute in the decision to rescind the concession.

Finally, it is possible to file a lawsuit, the subject of which is the dispute in the procedures for the expropriation of the concession for the public benefit, against the governor's decision that includes the return of the land or the amount of the proposed compensation.

Conclusion:

After this topic, it is clear that agricultural real estate represents a strategic resource that contributes significantly to economic and social development. Achieving its optimal

exploitation depends on an airtight legal framework that ensures the protection of the rights of the parties concerned and achieves a balance between the public and private interests. The legal bases for the exploitation of agricultural real estate vary between national legislation, international conventions, and policies related to sustainability and environmental protection, making it necessary to integrate these foundations to achieve fair and sustainable exploitation.

It can be said that the Algerian legislator has taken a bold step by adopting the concession contract as a new pattern for exploiting agricultural property since the basis and axis of this law differ significantly if not wholly, from the laws that preceded it, the laws that framed and established agricultural ownership. The boldness here lies in the legislator's rejection of the idea of permanence.

This principle raises the value of the idea of owning land, and the Algerian farmer investor considers it a firm belief. There has always been a firm belief in the principle of land for those who serve it. Frankly, this belief has not served the land or the investor farmer in any way. The greatest evidence of this is the poor results of the agricultural sector for decades.

Among the most important results reached in the light of this study:

In this sense, the Algerian legislator has established the procedures for converting the permanent usufruct right into a fixed-term concession right under Law 10/03. This law stipulates that the concession right is granted under a contract that includes specific conditions and obligations. The beneficiary of this contract must abide by these conditions. Otherwise, the administration may unilaterally terminate the contract, and the investor reserves the right to challenge the decision to terminate the contract before the judiciary within two months of being notified of the termination of the contract.

In granting the privileges stipulated in this law, priority was given to members of collective and individual agricultural investors who benefited from the provisions of Law No. 87/19 issued on December 08 1987, as well as holders of an official contract issued by the real estate governorate, or a decision by the governor, provided that the members of collective and individual agricultural investors fulfil their obligations as specified in Law No. 87/19.

- The Algerian legislature allows investors holding concessions to mortgage the real estate right resulting from the concession in favour of the loan bodies. The aim is to secure the capital necessary for the development, growth, and optimal exploitation of agricultural property through the provision of equipment, materials, and basic agricultural tools.
- The Algerian legislator gives priority to natural persons over legal persons in granting concession contracts due to the nature of the responsibilities placed on the investor, which requires direct and personal control of the investor, which is a challenging endeavour for legal persons.
- Exempting the foreign investor from exploiting the agricultural property under the concession contracts, through the reservation of the Algerian legislator on the issuance of a concession contract to foreign investors, citing the sovereignty of the State over its territory, which was not respected in the exploitation of both the industrial property and the tourist property.

As for the recommendations reached under this study, they are as follows:

- The need for strict control over the extent of investors' commitment to their obligations and compliance with the book of conditions, in addition to the need to cancel the exemption from the costs of registration and real estate publicity of the concession contract, which deprives the public treasury of significant tax revenues.
- Removing ambiguity in the legislator's use of the term "inheritance", as inherited assets fundamentally differ from temporary privileges granted for a specified period. It is widely known that ownership is permanent and not extinguished by non-use, while the rights associated with peasant land are temporary. Consequently, the legislator should have used the term "relocation" to avoid contradiction or ambiguity and ensure compatibility with Article 25 of Law 10/03.
- Article 4 of Law 10/03
- vaguely expresses the need to determine the period of renewal of the concession contract, emphasizing "...40 years renewable." Absolute renewal contradicts the principle of limitation established by this law and aligns with the concept of permanence. The material should be reviewed, and concepts should be clarified to remove ambiguity.
- Raising legal awareness and organizing awareness campaigns for farmers and investors about their rights and duties to ensure the effective application of laws.
- Modern technology, such as geographic information systems (GIS), can be used to track the use of agricultural real estate and ensure respect for laws.
- Encourage sustainable investment by establishing legal incentives for investors committed to sustainable and environmentally friendly agricultural practices.
- Strengthening oversight and supervision and establishing independent oversight bodies to ensure the implementation of laws and combat administrative corruption.

In the end, we say that the protection and exploitation of agricultural real estate is a shared responsibility that requires concerted efforts between the State and society, ensuring this vital resource's sustainability and promoting agricultural and economic development.

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