

PRIVILEGES AND RECLAMATION IN ALGERIAN LEGISLATION: BALANCING INVESTMENT PROMOTION AND FOOD SECURITY

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Abstract:

The Algerian state, through its investment policy, aims to find an alternative to financial resources other than oil revenues. This has resulted in the issuance of numerous legal texts, which we have analysed in order to understand the mechanisms of concessions and reclamation for investment in agricultural land within Algerian legislation as two ways of achieving food security.

We concluded that the mechanism for exploiting agricultural land under Law 10/03 is the concession, along with its implementing decree 10/326. The mechanism of reclamation through cession is based on Law 83/18, which granted a five-year period to complete an appropriate project, with a resolutive condition to benefit from the cession in exchange for reclamation.

Regarding reclamation by concession: we distinguished between two phases: reclamation by concession, which could be converted into cession under the now repealed Executive Decree 97/483, and reclamation by concession, which could not be converted into cession under Executive Decree 21/432, amended and supplemented by Executive Decree 24/55, which negated the possibility of converting the concession into cession even after the land had been reclaimed. Executive Decree 24/55 introduced exceptional procedures for projects of a strategic nature, encouraging investments to achieve food security.

Keywords: Concession, reclamation, reclamation under concession, strategic projects, agricultural land, land belonging to the state, private land.

INTRODUCTION:

The agricultural sector in Algeria has seen various legal texts that embody the method of exploiting agricultural land in order to achieve food security. Several legal texts have been issued, starting with the self-management system, which was later reinforced by the order related to the agricultural revolution¹, which expanded state ownership at the expense of private ownership. This included the incorporation of municipal and communal land into the Agricultural Revolutionary Fund. However, with the change of authority in Algeria, the idea of encouraging investment in desert areas and land suitable for reclamation was proposed through Law 83/18 on the ownership of agricultural land². This was followed by the Agricultural Investment Law 87/19³, the Land Orientation Law⁴, and culminated in the issuance of the Agricultural Orientation Law No. 08/16, related to agricultural guidance⁵, and Law 10/03, which establishes the conditions and methods for the exploitation of agricultural land belonging to the State's private property⁶, along with its regulatory texts.

¹- Order 71/73 dated 8/11/1971 concerning the agricultural revolution, Official Gazette No. 97.

²- Law 83/18 dated 13/08/1983 concerning the possession of agricultural property, Official Gazette No. 34.

³- Law 87/19 dated 8 December 1987 concerning the regulation of the exploitation of agricultural land belonging to national property and defining the rights and duties of producers, Official Gazette No. 50.

⁴- Law 90/25 concerning land orientation dated 18 November 1990, Official Gazette No. 49.

⁵- Law 08/16 dated 03/08/2008 concerning agricultural orientation, Official Gazette No. 46.

⁶- Law 10/03 dated 15/08/2010 determining the conditions and methods of exploiting agricultural land belonging to state private property, Official Gazette No. 46.

We can divide these laws into two phases using a temporal marker, represented by the enactment of Agricultural Orientation Law 08/16, as it was the first law to establish the concession system as a method of exploiting agricultural land. This was followed by Law 10/03, which clarified the conditions and methods for the exploitation of agricultural land. Our study will therefore focus on the first section: Concession as a mechanism for exploiting agricultural land under the 10/03 legal system. We will then discuss reclamation in its various forms, starting with the concession form under the previous systems, namely Law 83/18 and Executive Decree No. 97-483⁷, followed by reclamation under the concession in the current system of Executive Decree 21/432, which specifies the conditions and methods for granting land belonging to the State's private property for reclamation under the concession⁸, as amended by Executive Decree No. 24/55⁹.

We therefore ask the following question: What is the effectiveness of the concession mechanism for investment in agricultural land under Law 10/03, **and how does reclamation in its various forms contribute to achieving food security?**

The nature of the study requires recourse to analytical and descriptive methods, using comparative methodological tools, due to the successive legal texts that frame this issue, to which the Algerian state attaches great importance.

Basic structure of the plan:

Chapter One: The Privilege under Law 10/03

Chapter Two: The Improvement, which is divided into two sections: Improvement by Concession and Improvement under the Privilege, distinguishing two phases.

Chapter One: The Privilege as a Mechanism for the Exploitation of Agricultural Land:

The development of the legal system for investment in agricultural land is marked by the issuance of Law 08/16 on Agricultural Guidance, which recognizes the privilege as a mechanism for exploiting agricultural land, and Law 10/03, which establishes the conditions and methods for exploiting agricultural land that belongs to the private property of the State¹⁰.

The first law that established the privilege as a tool for the management of agricultural lands belonging to the private property of the State is the Agricultural Guidelines Law No. 08/16,¹¹ which states in Article 17: "The privilege constitutes a mode of exploitation of agricultural lands belonging to the private property of the State". It is considered to be one of the most important legal instruments relied upon by the legislator, as a flexible contractual management technique concluded between the agricultural investor and the administration that grants these lands, under the direct supervision of the State through administrative control mechanisms, particularly the National Office of Agricultural Lands and other regulatory institutions¹².

Law 08/16, in Article 47, provides a definition of the agricultural investor: "For the purposes of this Law, an agricultural investor is any natural or legal person who carries out agricultural activities, participates in the management of the investment, benefits from its profits and bears the losses arising from it". It refers to

⁷- Executive Decree No. 97-483 dated 15 December 1997 specifying the methods for granting the right of concession for plots of land from state private property in reclamation areas and its burdens and conditions, amended and supplemented, Official Gazette No. 85.

⁸- Executive Decree 21-432 dated 4 November 2021 defining the conditions and methods for granting lands belonging to state private property for reclamation under concession, Official Gazette No. 85.

⁹- Executive Decree No. 24/55 dated 32 January 2020 amending and supplementing Executive Decree No. 12-432 which defines the conditions and methods for granting lands belonging to state private property for reclamation under concession, Official Gazette No. 04

¹⁰- Law 10/03 dated 15/08/2010 defining the conditions and methods for exploiting agricultural land belonging to state private property, Official Gazette No. 46.

¹¹- Law 08/16 dated 03/08/2008 concerning agricultural orientation, Official Gazette No. 46.

¹²- Mahmoudi Abdelaziz, "Investment in Agricultural Property through Concession in Algerian Law in Light of Recent Judicial Interpretations of the Supreme Court and the State Council," 1st Edition, Bayt Al-Afkar for Publishing and Distribution, Algeria, 2019, p. 88.

subsequent legislation that defines the conditions and methods for recognizing the status of agricultural investor, which has not yet been issued. It should be noted that Law 10/03 does not require an agricultural investor card or a recognition card for farmers¹³.

Law 10/03 confirms in Article 03 that the privilege constitutes a mode of exploiting agricultural lands, as Law 08/16 refers to legislative text "10/03," while the definition of the right of privilege appears in Article 4 of Law 10/03: "The privilege is the contract by which the state grants a natural person of Algerian nationality, referred to in the text as the investor holding the privilege, the right to exploit agricultural lands belonging to the private properties of the state as well as the surface properties connected to it, based on specifications determined by regulation, for a maximum period of forty years, renewable in exchange for an annual fee, the methods for determining, collecting, and allocating which are specified by the finance law." Article 14 of Executive Decree 10/326 affirms the contract duration of the privilege as set at 40 years, renewable.

Section One: Conditions to be met by the applicant for the privilege and the real estate subject to the privilege contract:

The law establishes a series of conditions to be met by the applicant for the privilege, whether addressed as a new investor or as a transferee of the permanent right to a privilege. There are also conditions that must be met regarding the real estate that is the subject of the privilege contract, as Law 10/03 addresses two categories of beneficiaries:

- Must be a natural person.
- Must be of Algerian nationality¹⁴.
- Must not have committed any dishonorable act during the National Liberation Revolution¹⁵.

Article 2 of Law 10/03 also provides for the application of this law to agricultural lands belonging to the private property of the State and subject to Law 87/19.

Conversion of the right of perpetual usufruct into a privilege:

The privilege is also granted to members of collective and individual agricultural investments who benefited from the provisions of Law 87/19 and who have:

- An official contract notarised and registered in the Land Registry¹⁶.
- Or a decision of the Governor.

Members of the aforementioned agricultural investments must have fulfilled their obligations under Law 87/19. From the date of publication of this Law in the Official Gazette¹⁷, they must submit their applications for the conversion of the perpetual usufruct into a privilege to the National Office for Agricultural Land, for which the investors are granted a period of eighteen (18) months¹⁸. Articles 2, 3, 5, 6, 7, 8 and 9 of Decree 10/326 detail the methods for applying the right of privilege for the exploitation of agricultural land belonging to the private property of the State and explain how to study the files for the conversion of the perpetual usufruct into a privilege¹⁹.

¹³- Sousesan Boucebaïat, "The Legal System of Agricultural Property in Algeria: Agricultural Lands Belonging to State Private Property," Doctoral Thesis, Private Law, Specialization in Real Estate Law, 2017/2018, University of Constantine, Algeria, p. 156.

¹⁴- According to Article 4 of Law 10/03.

¹⁵- Article 19 of Law 10/03.

¹⁶- Article 5 of Law 10/03.

¹⁷- Article 9, Paragraph 1 of Law 10/03.

¹⁸- Article 30, Paragraph 1 of Law 10/03: "Investors are granted a period of eighteen (18) months from the date of publication of this law in the Official Gazette to submit their requests to convert the right of permanent usufruct to the right of concession to the National Office of Agricultural Lands."

¹⁹- Executive Decree 10/326 dated 23 December 2010 that defines the methods for applying the right of concession for exploiting agricultural lands belonging to state private property, Official Gazette No. 79.

By analysing article 5 of Law 10/03, we find two types of registered contracts: notarised contracts and registered administrative contracts. This leads us to question the fate of unofficial registered contracts drawn up by a notary and not under the supervision of the State Property Administration. Who benefits from these contracts under the provisions of Law 10/03? It should be noted that the following persons are excluded from benefiting from the provisions of this law

- Those who have acquired the agricultural land referred to in article 2 above, or who have carried out transactions or acquired rights of use and/or surface ownership in violation of the laws and regulations in force.
- Those who have been the subject of a judicial annulment of their rights.
- Those whose grants have been cancelled by the Governors²⁰.

Instruction No. 16, dated January 18, 2005, stipulated the freezing of operations for the transfer of real estate rights granted to agricultural producers under Law 87/19. What, then, is the fate of the documented contracts that were concluded before this date but were not registered, or those that were transferred through informal contracts? Although Law 10/03 excludes beneficiaries holding contracts that violate the law, as per our interpretation of Article 7, some farmers have demonstrated their worth in cultivating the land. Therefore, the state took measures to regularize their status by issuing Joint Instruction No. 454 dated December 11, 2012, from the Ministry of Agriculture and Rural Development regarding the conversion of permanent usufruct rights to a leasehold right by the provincial committees established under Law 10/03. In this context, the administrative contract pertaining to the relinquishing investor must be canceled

We conclude that the instruction contradicts all legal texts that require the formalization and registration of real estate transactions, thus violating the principle of equivalence of forms. In addition, article 5 of Law 10/03 requires the possession of the registered administrative contract, which proves the right to perpetual usufruct, while the decision of the governor is only a preliminary measure prior to the preparation of the administrative contract and is considered only as an authorization of exploitation. In addition, the judicial authorities have refused to recognize usufruct rulings in cases of dispute, stating that proof must be provided by means of a formal contract.

Section 2: Preparation of the leasehold contract:

The law states that No individual may acquire more than one leasehold in the entire national territory. However, the exception allows an individual to acquire several leasehold rights for the purpose of forming a single agricultural investment, subject to the maximum area limits established by regulation and with the approval of the National Land Office.

In the context of this law, a “single agricultural investment” refers to any agricultural²¹ investment where all its parcels are contiguous and not separated by parcels belonging to other agricultural investments²².

Subsection 1: Conversion of perpetual usufruct rights into leasehold rights:

The National Property Administration shall draw up a contract for the conversion of perpetual usufruct rights into leasehold rights for each investor who fulfils the conditions set out in Article 5. In the case of a collective agricultural investment, the leasehold contract shall be made in favour of each investor as co-owner with equal shares²³. In the case of an application made by a representative of the heirs, the leasehold contract shall be made jointly and in the name of all the heirs²⁴.

Subsection 2: Grant of leasehold upon application:
The National Property Administration grants leasehold rights to agricultural land belonging to the State and

²⁰- Article 07 of Law 10/03.

²¹- Sousan Boucebaïat, op. cit., p. 161.

²²- Article 16 of Law 10/03.

²³- Article 6 of Law 10/03.

²⁴- Article 12, Paragraph 3 of Executive Decree 10/326.

any available surface land upon application by the National Land Office²⁵, after obtaining the approval of the Governor through a public notice of application. Priority will be given to:

- Investors with contiguous leasehold rights who wish to expand their investments.
- Persons with scientific and/or technical qualifications who present projects for the improvement and modernisation of agricultural investments²⁶.

The conditions and methods for the application of this article are laid down in a regulation. Accordingly, Article 25 of Decree 10/326 states: "The National Property Administration grants agricultural land and available surface properties, after obtaining the authorisation of the Governor, through an application announcement initiated by the National Land Office". The procedures for the announcement of the application and the criteria for the selection of candidates are established by a decision of the Minister of Agriculture²⁷.

In this section, we will clarify the mechanism of rehabilitation through the concession as per Law 83/18, which grants a period for the completion of the corresponding project under a resolutive condition for benefiting from the concession in exchange for rehabilitation. We will also detail rehabilitation within the framework of the concession, distinguishing between two stages as explained below:

Section One: Concession in exchange for rehabilitation under the terms of Law 83/18 In order to expand agricultural land, the State offered private individuals the opportunity to own land it owns in desert areas in exchange for rehabilitation and development under Law 83/18 on Property Ownership²⁸. The scope of this law applies to land in desert and steppe areas, provided that water is available²⁹, and does not apply to land covered by Law 87/19³⁰.

The owner is granted a period of five years, except in cases of force majeure, to carry out a rehabilitation programme for his land. However, if the rehabilitation is only partially completed at the end of the aforementioned period³¹, special measures will be taken according to the procedures established by the decree. Thus, the mechanism for land use according to this law is: a contract of sale or concession with a resolutive condition, which is the timely completion of the rehabilitation project.

Reasons for the failure of this system:

- The reluctance of the farmers to accept this offer due to the failure of agricultural land exploitation in fertile areas due to lack of funds, let alone in desert areas.
- Exploitation of the legal framework by opportunists in the field of agricultural land.
- Poor management of some of the financial resources intended to support the agricultural sector.

Section Two: Concession rehabilitation In this section we will illustrate rehabilitation through:

- Concessions that can be converted into transfers according to Executive Decree No. 97/483.
- Rehabilitation under non-transferable concessions pursuant to Decree-Law 21/432, as amended and supplemented by Decree-Law 24/55.

²⁵- Surface property is defined in Paragraph 2 of Article 4 of Law 10/03: "Surface property" refers to all properties attached to the agricultural investment, especially buildings, plantations, and irrigation facilities.

²⁶- Article 17 of Law 10/03.

²⁷- Decision dated 11 November 2012, defining the procedures for announcing candidacy and the criteria for selecting candidates for the concession of agricultural lands and surface properties belonging to state private property, Official Gazette No. 44, dated 15 September 2013.

²⁸- Mahmoudi Abdelaziz, op. cit., p. 33.

²⁹- Law 83/18 dated 13/08/1983 concerning the possession of agricultural property, Official Gazette No. 34.

³⁰- Mahmoudi Abdelaziz, op. cit., p. 34.

³¹- Article 11 of Law 83/18 concerning the possession of agricultural property.

Section One: Rehabilitation through Concessions Transferable to Transfers Under Executive Decree No. 97/483 Rehabilitation was previously organised under Executive Decree No. 97-483³², which defines the concession contract in Article 2 as “a transaction by which the State grants to a natural or legal person the right to use, for a certain period of time, available land belonging to its national patrimony, within the framework of rehabilitation in mountainous and steppe desert areas”. This is a method for rehabilitating and evaluating national properties and a means of acquiring these properties through a concession contract.

Executive Decree 97/483 outlines the procedures for granting concession rights to state land for rehabilitation purposes. The concession initially involves the granting of part of the national property in exchange for payment of a fee, with the State contributing to priority projects by providing water, electricity and road construction. Once the project has been completed and inspected, this concession can be converted into a transfer of land for full ownership by means of a management contract that includes the rehabilitated area and its actual use as ancillary facilities and outlets³³.

In reviewing the two texts, we noted the differences between the concession under Law 10/03 and Executive Decree 97/483 in several criteria, including the conditions for applicants and the types of land covered. In addition, the mechanism for rehabilitation through the concession under this decree allows for conversion to a transfer, highlighting the differences as follows:

- Rehabilitation through the concession under Executive Decree 97/483 is granted to natural or legal persons, prioritizing those with technical qualifications, while Law 10/03 grants concessions only to natural persons holding a registered and notarized official contract or a decision from the governor.
- Rehabilitation under Executive Decree 97/483 applies to lands in desert, mountainous, and steppe areas, whereas Law 10/03 pertains to agricultural lands belonging to state properties that were subject to Law 87/19. Thus, they differ in the scope of the land covered by the concession.
- The duration of the concession under Executive Decree 97/483 is determined by the completion period of the rehabilitation project, while Law 10/03 specifies a duration of 40 years, renewable.
- The possibility of converting rehabilitation through the concession to a transfer is allowed under Executive Decree 97/483, but not under Law 10/03.

It is noteworthy that a joint ministerial circular No. 1839 was issued on December 14, 2017, by the Ministries of Agriculture, Rural Development, Fisheries, Finance, Interior and Local Communities, and Water Resources. This circular addresses the benefits of agricultural land belonging to state properties designated for investment within the framework of land rehabilitation through the concession, revising the previous joint ministerial circular No. 108 dated February 23, 2011. Among its objectives are:

- Facilitating procedures for obtaining agricultural lands.
- Adapting and modifying the system and procedures for acquiring agricultural lands designated for rehabilitation investment through the concession, considering the economic requirements of developing and diversifying national production while providing job opportunities in targeted areas, especially in high plateaus and the south.
- Encouraging investment through rehabilitation.
- Ensuring support and monitoring for investors.
- Recovering unused lands.

³²- Executive Decree No. 97-483 which defines the methods for granting concessions of plots of land from state private property in reclamation areas and its burdens and conditions, amended and supplemented, dated 15 December 1997, Official Gazette No. 83.

³³- Leila Labied, "The Concession Contract According to Executive Decree No. 97/483," Master's Thesis, Private Law Department, Specialization in Real Estate and Agricultural Law, Faculty of Law, University of Saad Dahlab, Blida, Algeria, 2005, p. 2.



Key Points of the Circular

- Establishment of an Agricultural Investment Activation and Guidance Committee ("Inter-Provincial Committee") in place of the Provincial Committee, expanding membership to include the National Land Office, the Electricity and Gas Distribution Company, and the Agricultural Development Bank (as advisory members).
- The Governor may direct all or part of the investment in the area.
- Obligation to conduct a feasibility study of the area.
- Submission of applications to a single window, in this case the Directorate of Agricultural Services.
- Creation of a monitoring committee by the governor, consisting of representatives from the Directorate of Agricultural Services and the National Land Office.
- Establish a timeline for processing applications (15 to 45 days).
- Issue an eligibility decision prior to the concession process.
- Preparation of a specifications document and a project implementation schedule.
- Possibility of administrative cancellation without resorting to judicial proceedings³⁴.

Section Two: Rehabilitation Within the Framework of Non-Transferable Concessions According to Executive Decree 21/432

Executive Decree 21-432 establishes the conditions and procedures for granting lands belonging to state properties for rehabilitation within the framework of concessions³⁵. It was issued in implementation of the provisions of Article 18, particularly the first paragraph, of Law No. 08-16. The purpose of this decree is to specify the conditions and procedures for granting lands belonging to state properties for rehabilitation under concessions³⁶.

First: Definition of Rehabilitation

Rehabilitation refers to any action aimed at putting agricultural properties into production and enhancing their capabilities to allow for annual or multi-year production, intended for human, animal, or industrial consumption, either directly or after transformation³⁷.

The state can initiate the rehabilitation of agricultural lands belonging to state properties as part of agricultural development programs³⁸.

Second: Conditions for benefiting from land grants for rehabilitation under concessions

When examining the legal text, we distinguish between the conditions to be met by applicants for rehabilitation under concessions and the conditions relating to the land to be rehabilitated.

A: Conditions for applicants for rehabilitation under concessions

Natural persons of Algerian nationality or legal entities subject to Algerian law may initiate the rehabilitation of agricultural land belonging to the State, with State support, according to the terms of the specific specifications document³⁹.

The conditions for benefiting from the rehabilitation include:

³⁴- madr.gov.dz, accessed on 19/11/2024 at 00:00.

³⁵- Executive Decree 21-432 dated 4 November 2021 defining the conditions and methods for granting lands belonging to state private property for reclamation under concession, Official Gazette No. 85.

³⁶- Article 1 of the same executive decree.

³⁷- Article 2 of the same executive decree.

³⁸- Article 3 of the same executive decree.

³⁹- Article 4 of the same executive decree.

being a natural or legal person governed by private law and having Algerian nationality.

B: Conditions Regarding the Land Designated for Rehabilitation Within the Framework of Concessions

The purpose of this decree is to define the conditions and procedures for granting land belonging to the State for rehabilitation under concessions. As mentioned above, according to Article 3 of Decree 21/432, rehabilitation is defined as any action aimed at bringing agricultural land into production and improving its performance. The land to be rehabilitated under concessions must be agricultural land belonging to the State.

The land to be rehabilitated by concession is granted together with a specification document signed by the beneficiary and, where applicable, approved by the National Land Office⁴⁰, the model of which is annexed to this decree⁴¹, or by the Office for the Development of Industrial Agriculture in Desert Areas, the model of which is annexed to Executive Decree No. 20-265⁴². The boundaries of the rehabilitation areas will be determined by the National Land Office⁴³, in consultation with the relevant technical services of the province⁴⁴, on the basis of the availability of land⁴⁵.

Third: Study of Concession Applications

The study of applications is characterized by digital processing, distinguishing between the norm and the exception.

A. The Standard:

Articles 13 and 14 of Executive Decree 21/432 clarify the procedure for granting land for rehabilitation under concessions. Applications must be published electronically by the National Land Office or the Office for the Development of Industrial Agriculture in Desert Areas, established by Decree 20/265. The application for the concession must be accompanied by a file containing, in particular, a project plan for the investment, justifications for the financial capacity of the project holder and the governing statutes for legal entities.

The promoter submits the application electronically to either the National Land Office or the Office for the Development of Industrial Agriculture in Desert Areas after the publication of the call for applications.

B. The exception:

However, large tracts of land designated for strategic projects are not subject to the above notice of application procedure. For a classified strategic project requiring a large area, the application must be submitted to the National Land Office or the Office for the Development of Industrial Agriculture in Desert Areas together with a file, if applicable, with a receipt of submission⁴⁶.

Strategic projects are classified by decree of the Minister of Agriculture and registered in the corresponding digital platform.

Articles 13 and 14 of Decree 24/55 have been amended to introduce an exceptional procedure for the allocation of agricultural land for rehabilitation through concessions for the implementation of projects of an exceptional nature. These projects are defined as those aimed at ensuring food security, reducing imports and creating genuine development poles in various key agricultural sectors, particularly in the southern provinces.

The list of strategic crops includes: cereals, fodder, oilseeds, sugar beet, milk production, meat production, cotton and seed intensification. The reference area cannot be less than 10,000 hectares, except for seed

⁴⁰- Article 9 of the same executive decree.

⁴¹- Article 6 of the same executive decree.

⁴²- Article 7 of the same executive decree.

⁴³- Article 20 of the same executive decree.

⁴⁴- Article 27 of the same executive decree.

⁴⁵- For further information, see the joint ministerial decision dated 29 November 2022 which defines the methods and deadlines for the conformity of reclaimed lands, Official Gazette No. 02.

⁴⁶- Article 2 amending Articles 13, 14, and 28 of Executive Decree 21/432 from Executive Decree 24/55.

intensification, which requires a minimum area of 2,000 hectares. Thus, the submission of the concession rehabilitation file under this exceptional procedure is made to the Ministry of Agriculture and Rural Development, accompanied by a letter addressed to the Minister to classify the project and grant it the status of strategic project. Once classified, the project holder submits its file directly to the Office for the Development of Industrial Agriculture in Desert Areas⁴⁷.

Article 15 of Decree 21/432 specifies how concession files are evaluated:

- The Technical Committee for the Promotion of Agricultural Investments, established within the provincial structures of the National Land Office for areas not under the jurisdiction of the Office for the Development of Industrial Agriculture in Desert Areas.
- The Technical Evaluation and Expertise Committee, attached to the Office for the Development of Industrial Agriculture in Desert Areas, as provided for in Article 34 of Decree No. 20-265⁴⁸.

The Technical Committee for the Promotion of Agricultural Investments, which serves as an advisory and support tool for project promoters in the framework of the promotion of agricultural investments at the local level⁴⁹.

The Technical Committee for Agricultural Investment Promotion has the following responsibilities:

- Guiding projects: Direct projects based on agricultural sector policies.
- Optimize rehabilitation areas: Ensure optimal guidance for the allocation of rehabilitation areas based on economic feasibility and preservation of natural resources, especially steppe and desert rangelands⁵⁰.
- Approval of technical studies: Validate technical studies of rehabilitation areas to be subsidized, in consultation with relevant provincial authorities.
- Establish selection criteria: Define additional selection criteria related to the specifics of the province.
- Evaluation of investment projects: Study and make decisions on rehabilitation investment projects based on work plans.
- Modify Work Plans: Decide on requests to modify work plans, extend completion dates, and review the area and concession of granted lands.
- Monitoring and reporting: Approve monitoring and follow-up reports and decide on the cancellation of grant decisions or the termination of concession contracts.
- Complaints handling: Review and decide on complaints filed by concessionaires.

The National Land Office sends a report every three months to the Minister of Agriculture and the relevant provincial governor, detailing

- Status of implementation of agricultural investment projects

Preparation of the concession contract for the rehabilitation of the land:

- The National Land Office for areas not under the jurisdiction of the Office for the Development of Industrial Agriculture in Desert Areas⁵¹.
- The Office for the Development of Industrial Agriculture in Desert Areas, in accordance with Executive Decree No. 20-265 of September 4, 2020⁵².

⁴⁷- onta.dz, accessed on 5/11/2024 at 00:00.

⁴⁸- Official Gazette No. 85.

⁴⁹- Article 16 of the same executive decree.

⁵⁰- Article 19 of the same executive decree.

⁵¹- Article 5 of the same executive decree.

⁵²- Executive Decree No. 20-265 dated 22 September 2020 concerning the establishment of the Office for the Development of Industrial Agriculture in Desert Lands, Official Gazette No. 57.



Article 21 of Executive Decree 21/432 confirms that the concession is granted in the form of a contract prepared by the competent State Property Services. This contract will be issued to the beneficiary by the National Land Office or the Office for the Development of Industrial Agriculture in Desert Areas after the completion of the registration and property declaration procedures in accordance with the applicable laws and regulations.

Article 10 of the same decree establishes the duration of the concession, stating: “The concession of land belonging to state property for rehabilitation shall be granted for a maximum period of forty (40) years, renewable at the request of the concessionaire”

- The concession cannot be tacitly renewed. The investor concessionaire may obtain renewal by submitting a written request to the National Land Office at least one (1) year prior to the expiration of the concession. If the concessionaire does not submit a request for renewal prior to the expiration of the concession, the granted land reverts to state ownership⁵³.

- The rights of the concessionaire may be continued by his heirs in the event of his death. They must submit a concession application, accompanied by the legal documents, to the National Land Office within six (6) months from the date of death to complete the procedures⁵⁴.

- In the event that the concessionaire ceases to exist for any reason, the land subject to the concession shall revert to the State, respecting the rights of legal entities as established by the applicable laws and regulations⁵⁵.

The concessionaire must commence the rehabilitation works within six (6) months of being appointed to the land⁵⁶, carrying out the works in accordance with the rehabilitation programme set out in the specifications.

The National Land Office has the right to monitor the conditions of the rehabilitation and exploitation of the land at any time to ensure compliance with the work plans and the terms of the specifications. During the monitoring process, the concessionaire must assist the monitoring agents by facilitating their access to the investment site and providing them with all necessary information and/or documents.

The concession is granted in exchange for the payment of an annual fee, which is determined by the Finance Act.

Article 4 of the specifications document outlines the rights and obligations of concession holders investing in the rehabilitation of lands belonging to state properties through concessions. The concession is granted for a period of . It specifies that the rehabilitation of lands under state properties within this framework does not result in the transfer of ownership to the concession holder. This is reaffirmed by Article 30 of Executive Decree 21/432, which states that all conflicting provisions of this decree are nullified, particularly those of Executive Decree 97-483⁵⁷, which defined the procedures for granting concessions of plots from state-owned properties for rehabilitation purposes and allowed for the possibility of converting the concession into a transfer.

Article 2 of Executive Decree 24/55

Article 2 of Executive Decree 24/55, which amends Article 28 of Executive Decree 21/432, stipulates that beneficiaries of lands under various rehabilitation systems where the granting procedures have not been completed must comply with the provisions of Executive Decree 21/432 by December 31, 2024. To facilitate this, the Ministry of Agriculture and Rural Development has taken all necessary steps to finalize the agricultural land rehabilitation files by the end of January 2024, in accordance with the instructions of

⁵³- Transfer of the right of concession according to Article 9 of the specifications attached to Executive Decree 21/432.

⁵⁴- Article 11 of the same executive decree.

⁵⁵- Article 8: Breach of obligations by the concessionaire as per the specifications attached to Executive Decree 21/432.

⁵⁶- Article 12 of the same executive decree.

⁵⁷- Official Gazette No. 85.

President Abdelmadjid Tebboune regarding the “final settlement” of this issue and the granting of property contracts to their rightful owners.

The director of real estate organisation and land rehabilitation at the ministry indicated that the ministry has prepared communications to the provincial authorities to encourage the activation of committees to oversee the monitoring and control of land rehabilitated under Law 83-18 of 1983, which relates to the acquisition of agricultural property through rehabilitation.

During a recent meeting of the Council of Ministers, the President instructed the Prime Minister and the Ministers of the Interior and Agriculture to achieve a final resolution of the files on the rehabilitation of agricultural land by the end of January 2024, together with the granting of property contracts to their owners. These committees, according to a ministry official, operate at the provincial level under the supervision of the governor. They will oversee the deliberations during which the rehabilitation files will be studied and approved, verify whether the allocated areas are being used effectively and, based on this assessment, issue property contracts according to the area used or rehabilitated.

This procedure makes it possible to recover unused agricultural land that has been granted a five-year rehabilitation period, so that it can be reallocated in accordance with Law 83-18 or other laws. The Ministry will coordinate with all relevant sectors to resolve these files within the timeframe set by the President⁵⁸.


CONCLUSION:

The Algerian state, through its investment policy, has sought to find alternatives to financial resources other than oil revenues, especially in the context of global economic and political conditions such as the Russia-Ukraine war and the repercussions of COVID-19. The chaos in the availability of basic commodities has led Algeria and other countries to consider achieving food security. This has resulted in the issuance of numerous legal texts, which we have analyzed in order to understand the mechanisms of concessions and rehabilitation for investment in agricultural land within Algerian legislation as two ways to achieve food security.

We came to the following conclusions:

1. The succession of legal systems and the use of different formulas and mechanisms for investment in agricultural land have made their study, analysis and differentiation a complex task.
2. Our study of the legal texts revealed that the Algerian legislator has deviated from the principle of equivalence of forms and has found lower-level legal texts that contain contradictory provisions to those established in higher-level texts, in addition to the problem of successive ministerial publications.
3. The mechanism for the exploitation of agricultural land under Law 10/03 is the concession and its implementing decree 10/326.
4. The rehabilitation by transfer mechanism under the repealed Law 83/18 allowed a five-year period to complete the compliant project, subject to the cancellation clause for the benefit of the transfer in exchange for rehabilitation.
5. In the framework of concessions, we distinguished between two phases:
 - Phase One: Rehabilitation through convertible concessions under the repealed Executive Decree 97/483, now superseded by Executive Decree 21/432.
 - We highlighted the differences between the concession mechanism under Law 10/03 and rehabilitation through concessions under Executive Decree 97/483.
 - Phase Two: Rehabilitation through non-transferable concessions under Executive Decree 21/432, amended by Executive Decree 24/55, which negated the possibility of converting the concession to a transfer even after land rehabilitation, as confirmed by Article 4 of the specifications document attached to Executive Decree 21/432.

⁵⁸- www.aps.dz, accessed on 20/10/2024 at 00:00.



6. Executive Decree 24/55 introduced special procedures for strategic projects to promote investments aimed at achieving food security.

7. We recommend the digitalisation of the agricultural sector through the electronic announcement of applications, where applicable, by the National Land Office or the Office for the Development of Industrial Agriculture in Desert Areas, and the electronic submission of investment applications, in order to reduce corruption and bureaucracy.

8. Although we have referred to some ministerial publications related to rehabilitation through concessions, we have not elaborated on them, referring instead to the legislator's stance as observed in the amended Article 28 of Executive Decree 21/432.

9. Executive Decree 24/55 set 31 December 2024 as the deadline for resolving the rehabilitation files and granting property contracts to their rightful owners for beneficiaries of land under various rehabilitation systems where the granting procedures have not been completed. This measure will allow the recovery of unused agricultural land that was granted a five-year period for rehabilitation and its reallocation under Law 83/18 or other laws. The President has also granted a one-year extension to resolve agricultural property issues on the occasion of the 50th anniversary of the National Union of Algerian Farmers, extending the deadline to 31 December 2025.

REFERENCES:

Legal Texts

1. Ordinance 71/73 dated 8/11/1971 concerning the agricultural revolution, Official Gazette No. 97.
2. Law 83/18 dated 13 August 1983, concerning the acquisition of agricultural property, Official Gazette No. 34.
3. Law 87/19 dated December 8, 1987, concerning the regulation of the exploitation of agricultural lands belonging to national properties and defining the rights and obligations of producers, Official Gazette No. 50.
4. Law 90/25 concerning land orientation dated November 18, 1990, Official Gazette No. 49.
5. Law 08/16 dated 03/08/2008, concerning agricultural orientation, Official Gazette No. 46.
6. Law 10/03 dated 15/08/2010, which defines the conditions and methods for exploiting agricultural lands belonging to state properties, Official Gazette No. 46.

Executive Decrees

1. Executive Decree No. 97-483 dated December 15, 1997, which defines the procedures for granting the right to concession of plots from state-owned properties in rehabilitation areas and its burdens and conditions, Official Gazette No. 38.
2. Executive Decree 10/326 dated December 23, 2010, which defines the procedures for applying the right of concession for exploiting agricultural lands belonging to state properties, Official Gazette No. 79.
3. Executive Decree No. 20-265 dated September 22, 2020, establishing the Office for the Development of Industrial Agriculture in Desert Areas, Official Gazette No. 57.
4. Executive Decree 21-432 dated November 4, 2021, which defines the conditions and methods for granting lands belonging to state properties for rehabilitation under concessions, Official Gazette No. 85.
5. Executive Decree No. 24/55 dated January 32, 4220, amending and supplementing Executive Decree No. 21-432, which defines the conditions and methods for granting lands belonging to state properties for rehabilitation under concessions, Official Gazette No. 04



Ministerial Decisions

1. Decision of 11 November 2012 establishing the procedure for announcing candidacies and the criteria for selecting candidates for agricultural land concessions and land belonging to the State, Official Gazette No. 44 of 15 September 2013.
2. Joint Ministerial Decision of 29 November 2022, which establishes the procedures and deadlines for the compliance of rehabilitated lands, Official Gazette No. 02.

Books

1. Mahmoudi Abdel Aziz, "Investment in Agricultural Property through Concessions in Algerian Law in Light of the Latest Judicial Interpretations of the Supreme Court and the Council of State", first edition, Bayt Al-Afkar for Publishing and Distribution, Algeria, 2019.

Academic theses

1. Sousan Bousbiat, "The legal system of agricultural property in Algeria: Agricultural Land Belonging to State Property," Ph.D. Thesis, Private Law, Specialisation in Real Estate Law, 2017/2018, University of Constantine, Algeria.
2. Leila Labied, "The Concession Contract According to Executive Decree No. 97/483", Master's Thesis, Department of Private Law, Specialisation in Real Estate and Agricultural Law, Faculty of Law, Saad Dahlab University, Blida, Algeria, 2005.

Websites

1. madr.gov.dz - onta.dz - www.aps.dz