

Journal of legal and social studies

Issn: 2507-7333

Eissn: 2676-1742

**The Situation of Agricultural Investments between the Right of Permanent  
Usufruct and the Temporary Concession right in the Algerian Legislation**

**Rabia zahia\***

Akli Mohand Oulhadj university, Bouira.(Algeria), z.rabia@univ-bouira,dz

Date of send: 01 / 03 / 2024

date of acceptance: 01 / 05 /2024

Date of Publication: 01/06/2024

\*corresponding author

**Abstract :**

The Algerian legislator has accorded great importance to agricultural lands belonging to the state's private property by issuing a series of laws in order to reconsider their exploitation. The aim of these laws appears in changing the pattern of use and transforming it from a permanent usufruct to a temporary agricultural privilege, which was enshrined in Law No. 10-03 specifying the conditions and methods of the state's land exploitation within the framework of collective and individual agricultural investments. This law has introduced different legal rules from those that were embodied in Law No. 87-19, especially with regard to the right of permanent usufruct, as well as the effects resulting from the right of temporary concession. All of this was for the aim of preserving the agricultural lands as a national priority.

**Keywords:** agricultural investment, concession right, permanent usufruct, agricultural real estate, investor.

Since the beginning of the eighties, Algeria has begun to implement several reforms at the level of the agricultural sector. Agricultural lands belonging to private national property have been given greater attention by the legislator. This latter has issued several legal texts that are originally related to the pattern of their exploitation and management through Law No. 87-19, which includes regulating the manner of exploiting the agricultural lands that belong to the national property and determining the rights and duties of producers<sup>1</sup>. This was the result of proving that previous legislative texts were ineffective for the advancement of the agricultural sector, which is mainly represented by the self-management system in farming<sup>2</sup> as well as the agricultural revolution. Additionally, this right was granted for free and without returns.<sup>3</sup>

The Algerian legislator, through the previously mentioned Law, No. 87-19, has introduced agricultural investments as tools for exploiting agricultural lands belonging to the state and making them responsible for their activity by removing the state's monopoly and interference. This law has granted a permanent usufruct right with returns for all the lands that were subject to the self-management system and the revolution law under an administrative contract registered and notified by the Real Estate Governorate. It also made it a permanent, transferable, assignable and confessable right that cannot be expropriated from the beneficiary except under expropriation procedures for the public benefit. This is in contrast to what agricultural exploitations were like under previous laws, where this perpetual right was neither transferrable, sizeable nor assignable except to the male heir, unlike the female. This was under the Agricultural Revolution Law.

It is worth noting that despite the perpetuation of this right to assert reassurance and stability for the beneficiaries, it has been proven to be ineffective in achieving self-sufficiency in agriculture and preserving agricultural lands, due to the lack of state control over those lands. This has led to many disputes occurring between farmers for many reasons, which, in turn, led the legislator to retreat this option after Algeria has abandoned the socialist system and adopted the pluralistic system. Subsequently, the legislation has reconsidered the organization and exploitation of private national lands. As a result, Law No. 10-03 was issued to specify the conditions and methods of exploiting agricultural lands belonging to private state property<sup>4</sup>, which repealed Law 87-19 and gave rise to the agricultural concession system that had previously been dealt with in Agricultural Guidance Law No. 08-16<sup>5</sup>. This is in addition to the issuance of Executive Decree No. 10-326<sup>6</sup>, which determined the methods of implementing this new model. The concession system brought about a radical change in the way of exploiting public agricultural lands and has become a temporary right that is

distinguished by several characteristics which are unique from the permanent usufruct right. Hence, the following problem is proposed: What are the implications of shifting the pattern of exploitation of agricultural investments from a permanent usufruct right to a temporary concession? To answer this question, we divided the study into two sections. In the first section, we dealt with the permanent usufruct right and its conversion to a temporary concession. As for the second section, we tried to shed light on the effects of this conversion on the management of agricultural investments.

### **THE FIRST TOPIC: the right of permanent usufruct and its conversion to a concession right**

Law No. 87-19 has come with new provisions, as it created agricultural investments that replaced the structures that were affiliated with the self-management system. Additionally, the Agricultural Revolution Law has made the right of permanent usufruct a legal means for exploiting these agricultural investments (the first requirement) and was a result of the deterioration of the situation of the agricultural sector due to the drawbacks that arose from the application of the abovementioned law. Accordingly, the transformations brought about by the legislator did not achieve the desired goal, thus, Law No. 10-03 was issued to adopt the method of temporary concession for the exploitation of agricultural lands (the second requirement).

The first requirement: Agricultural investments under permanent usufruct rights in accordance with Law 87-19:

Law No. 87-19, which was applied to agricultural lands that were self-administered, as well as the lands belonging to the Agricultural Revolution Fund, has granted all peasant producers the right of permanent usufruct that is transferable, assignable to heirs, and sizeable (Section One). The administrative contract is considered the source of the real estate right that is established for the members of the agricultural investment and determines the rights and obligations of both the beneficiary and the state (Section Two)

**Section one:** the legal foundation of the permanent usufruct right and its characteristics

The term permanent usufruct right was mentioned for the first time in texts related to self-management. The Algerian legislator used the term indefinite usufruct right, then the latter was introduced into the texts of the Civil Code, Article 858<sup>7</sup> and what follows it, whereby the legislator granted a group of workers in this sector usufruct right for an indefinite period, which is a right that

cannot be alienated or seized. This was followed by the Agricultural Revolution Law, which stipulates in Article 124 that the lands included in the Agricultural Revolution Fund are granted on the basis of perpetual usufruct. Another term was also mentioned in the Real Estate Guidance Law, which is the right to perpetual enjoyment through Articles 64 and 65. This concerns pastoral and allied lands because after the reclamation process, this right is converted into the right of ownership.<sup>8</sup>

Referring to the texts of Law No. 87-19, the legislator used the term permanent usufruct, through which the state grants the peasant producers concerned with this law the right to permanent usufruct over the entire lands that make up the investment<sup>9</sup>. The real rights granted equally between members of the groups are transferable, assignable and sizeable.<sup>10</sup>

From the previous definitions, we note that the right of permanent usufruct is characterized by several essential characteristics, the most important of which is the feature of perpetuity<sup>11</sup>. Moreover, it is granted in exchange for the payment of a royalty to the state by the beneficiaries, as stipulated in Article 6/2 of Law 87-19. In addition to this, the scope of exercising the right of permanent usufruct is the agricultural lands belonging to the private national property of the state. It is also characterized by its transferability from the beneficiary to others, which is performed according to the text of Article 09 of Law No. 87-19. It is also a right that can be transferred according to certain conditions, otherwise it would be invalid<sup>12</sup>. Additionally, this right can be seized and sold at public auction, and it can also be inherited; however, it is not permissible to divide it among the heirs. Rather, in the case of multiple heirs, one of them must be appointed to represent them in rights and duties. Moreover, it is a right whose owner cannot be deprived of it except in accordance with the procedure of expropriation for the public benefit<sup>13</sup>, which is carried out in accordance with Law No. 91-11 that specifies the rules of expropriation for the public benefit.<sup>14</sup>

**Section Two:** The administrative contract that establishes the permanent usufruct right

The administrative contract is considered the source of the real estate right that is established for the members of the agricultural investment and determines the rights and obligations of both the beneficiaries and the state<sup>15</sup>. After the group of exploiters forms an agricultural estate, on their own initiative, they choose each other<sup>16</sup>. According to the text of Article 12 of the law No. 87-19, an administrative contract is issued to them specifying the land on which they exercise their right to permanent usufruct in common and in equal shares. In implementation of this text,

Executive Decree No. 90-50 was issued to specify the conditions of preparing the administrative contract that proves the real estate rights granted to peasant producers<sup>17</sup>. It, also, determines certain conditions that must be met before issuing the administrative contract, which were referred to in the Ministerial Instruction No. 120 issued on 03/07/1990 that is related to the administrative contract confirming the real estate rights granted under Law 87-19 to agricultural producers.

Among the conditions that must be met for issuing the administrative contract, after the agricultural investment is formed in a legal manner<sup>18</sup>, are the following: the issuance of a final beneficiary decision from the competent governor to specify the components of the real estate basis granted to the beneficiaries collectively or individually, the liquidation of appeals related to the evaluation of the state property management of the relinquished properties, the necessity of holding an agreement about the payment of the value of the transferred property between the producers and the Bank of Agriculture and Rural Development<sup>19</sup>, appointing a member to represent the collective agricultural investment in the administrative contract through a special agency<sup>20</sup>, in addition to the civil status documents that prove the beneficiary's nationality and identity. The administrative contract, like other contracts, also requires the availability of the elements of consent, subject matter, and reason for its valid conclusion, as well as its notarization by the competent authorities to arrange its legal effects<sup>21</sup>. The state has worked to simplify administrative procedures for beneficiaries to prepare administrative contracts<sup>22</sup>. However, we must note that many agricultural investors were beneficiaries of a usufruct right, but without obtaining an administrative contract. Rather they were beneficiaries according to state decisions issued by the regionally competent governor.

### **THE SECOND TOPIC: Transferring the concession right as an alternative to the permanent usufruct right to exploit agricultural investments under Law No. 10-03**

After proving the failure of the permanent usufruct model approved by Law No. 97-19, especially in what is related to the factual and legal difficulties that may obstruct the transfer of the permanent usufruct right, as well as the lack of understanding between the members of the collective agricultural estate that led to the illegal division and fragmentation of the agricultural estate lands, Law 10-03 was issued. The legislator adopted in the text of Article 4 of this latter the temporary concession pattern instead of the permanent usufruct right, and made it an exclusive pattern for exploiting these lands as an application of the principles

and directives issued by Law 08-16, which includes the real estate directive. Thus, what is the concept of this right according to Law 10-03 and what are its conditions?

**The first section: the concept of the concession right:** The Algerian legislator has defined the concession in accordance with many legal texts, whether related to the administrative concession, to the concession as a means of reclaiming agricultural lands, or to the concession within the framework of leasing investment projects<sup>23</sup>. Article 03 of Law No. 08-16, which includes the agricultural directive in its second paragraph, defines it as follows: “A concession contract is a contract under which the granting authority provides a person with the right to exploit agricultural real estate for a specific period in exchange for the payment of an annual royalty.” With reference to the texts of Law No. 10-03, the text of Article 4 defined it as follows: “A concession is a contract under which the state grants a normal person with an Algerian nationality, known in the text as the investor who owns the concession, the right to exploit agricultural lands belonging to the state’s private property, as well as the surface properties connected to them, based on a book of conditions determined by regulation for an appropriate renewable period in exchange for the payment of an annual royalty. The methods of determining, collecting and allocating them are determined in accordance with the Finance Law.”<sup>24</sup>

What we can notice from these two texts is that the legislator used the term “person” in Law No. 08-16, which is a broad term that includes the natural and legal person. While in Law No. 10-03 it merely used the phrase “normal person” and not the juridical person. Additionally, the phrase “agricultural real estate” stipulated in Article 3 of Law 08-16 is broad and includes the whole lands with the buildings and real estate they contain related to the investment.<sup>25</sup>

The right of concession was also defined in one of the decisions of the Council of State, stating that the concession contract of state property is an administrative contract under which the concession authority is granted to the user for a specific and continuous purpose in exchange for the payment of a royalty, but for a temporary exploitation of a property belonging to the national property in an exceptional and revocable manner<sup>26</sup>. Based on the previous definitions, it can be said that one of the most important characteristics of the concession right is that it is an administrative contract that creates a real estate right with a fixed term, in exchange for returns. Moreover, it is subject to renewal, inheritance, seizure, and assignment.<sup>27</sup>



## **Section Two: The conditions of the concession contract and the procedures of converting the permanent usufruct right into a concession right**

The legislator stipulated in Article 4 of Law No. 10-03 that the beneficiary of the concession must be among the members of individual and collective agricultural investments within the framework of Law No. 87-19 and that he\she possesses an official notarized contract or a state decision issued by the regionally competent governor proving his\her exploitation of agricultural lands within the framework of the permanent usufruct right. He\she, also, has to fulfil his\her obligations stipulated by law, such as paying royalties and the price of the transferred property. Consequently, all those who acquired usufruct rights through illegal means, or hold official documented contracts that are non-publicized, as well as owners of customary contracts, have been excluded from benefiting from this right. This situation was addressed with the issuance of the Ministerial Instruction 654, which included processing the files of converting the usufruct right into the concession right.<sup>28</sup>

As for the procedures of converting the permanent usufruct right into a concession right, the Algerian legislator obligated the members of the agricultural investment, whether individual or collective, to individually submit a transfer request by each member of the agricultural investment to the National Office of Agricultural Lands in order to study it and transfer it to the State Property Administration and to prepare the contract if accepted. This is stipulated by Article 9 of Law 10-03. The transfer request must be accompanied by the necessary documents<sup>29</sup> within a period of 18 months from the date of publication of the law in the official magazine, as stipulated by Article 30 of Law 10-03. In cases of failure, the National Office of Agricultural Lands sends two warnings via the judicial report. The duration between each warning and the other is one month. After this period, the investor or his\her heirs, following the ruling of those who abandoned their rights, are considered to convert the permanent usufruct right into a right of concession(p9). In this case, the agricultural lands and surface properties are recovered by the State Property Administration<sup>30</sup>, in accordance with the text of Article 30 of Law No. 10-03.

After studying the submitted files and confirming that the legal conditions are met, the National Agricultural Land Office signs a book of conditions with the investor who holds the concession, according to the form attached to Executive Decree No. 10-326. Then, the file must be sent to the State Property Administration for the purpose of preparing a concession contract in the name of



each investor with individual contracts and equal shares for every previous beneficiary<sup>31</sup>. Moreover, each investor has the right to create an individual investment and exit the commonness<sup>32</sup>. This was not present in Law 87/19, which caused many practical and legal problems with regard to collective investments - as we mentioned above. In accordance with Article 11 of the law No. 10-03, this is not applied, unless an application is submitted to the National Office of Agricultural Lands. This latter takes the decision based on the conditions stipulated in the Executive Decree No. 97-490, which specifies the conditions of dividing agricultural lands that have not been transferred to the Land Registry Authority to be registered.<sup>33</sup>

### **The second section: The effects of the concession contract**

The concession contract has almost the same effects as the permanent usufruct right under Law No. 87-19. There are effects related to the investor who holds the concession, and others related to the state granting the concession as the owner of the agricultural land.

### **THE THIRD TOPIC : The effects of the concession contract for the agricultural investor who holds the concession**

The concession right has several legal effects for the investor who holds the concession, which are represented in a number of acquired rights and obligations that he\she bears. These effects are covered by Law No. 10-03 in Article 23, as well as Executive Decree No. 10-326, in which there are rights enjoyed by the concession holder (Section One), in addition to a number of obligations (Section Two).

### **The first section: The rights stipulated in the legal texts of the concessionaire**

They are many, some of which are the following:

1- The free exploitation of agricultural lands and surface properties that are under his\her disposal for agricultural purposes. It is a right guaranteed individually to every agricultural investor who holds the concession, without any interference from the state or the others.

2- The right to carry out all necessary preparation and/or construction for better exploitation of agricultural lands, taking into account the fulfilment of the legislative and regulatory procedures stipulated in this regard, after prior authorization from the National Office of Agricultural Lands, which informs the State Property Administration.<sup>34</sup>

3- The right to mortgage the real estate right as a guarantee for the loans obtained from the loan authorities to finance its activity within the framework of the agricultural investment.<sup>35</sup>

4- The right to waive his\her concession right and demise it, within the conditions stipulated and specified in the provisions of Law No. 10-03.<sup>36</sup>

### **The second section: The obligations resulting from the concession right for the investor who owns the concession**

They are many, some of which are the following:

1- His\her commitment to pay the royalty in accordance with the text of Article 4/1 of Law No. 10-03.

2- His\her commitment to maintain the continuity of the investment in a way that any termination of the concession contract or death of a member does not stop the exploitation of the agricultural investment that has a moral personality.

3- The commitment not to transfer the agricultural orientation of the lands, surface properties, or the direct and personal management of the investment in accordance with Article 22 of Law 10-13, as well as the commitment not to build on an agricultural land without a license from the National Office of Agricultural Lands.

### **The second requirement: The effects of the concession contract on the state granting the concession**

The state is considered the owner of the agricultural lands granted to investors in the form of a concession; thus, the law was imposed on it and enabled it to do all what is necessary and required to preserve these lands. For this reason, the legislator has granted the state, in the Law No. 10-03, broad powers in terms of supervision (Section One) and imposing a penalty in cases of misconduct from the investor (Section Two).

### **The first section: the state's authority to supervise**

The state exercises its right to supervision through the National Agricultural Land Office, which is mainly related to the optimal exploitation of agricultural lands as it is the basic tool for implementing the national agricultural real estate policy. For this purpose, it conducts field visits to ensure that its activities comply with the provisions of Law No. 10-03, as well as the terms and conditions book concluded between the two parties in accordance with Article 27 of the Executive Decree No. 10-326. It also exercises an administrative control authority, which is

represented in monitoring files that transfer permanent usufruct to concession rights, in addition to monitoring the fragmentation of agricultural lands granted to concessions upon the formation of agricultural investments. Moreover, in cases that the concessionaire fails in the commitment to his\her obligations, the National Land Office is tasked with assigning a judicial report in order to inspect the conducted violations and writing a report about that, after warning the concessionaire.

### **The second section: The authority of the state granting the concession to impose sanctions**

Termination is considered one of the most important penalties that the administration can resort to in order to end the contract relationship with the beneficiary. It is applied whenever the concessionaire violates the obligations imposed on him\her in a way that seriously affects the proper implementation of the administrative contract. This must be preceded by alerting the beneficiary in a legal manner in accordance to what is stipulated in Article 28 of the Law 10-03, through which two basic conditions are required to prove the administration's right to terminate the concession contract. First, the investor must breach his\her legal obligations, especially Law No. 10-03 and Executive Decree No. 10-326. Second, the incident of the breach must be proven in a report prepared by the judicial officer. In this case, the state recovers the lands granted for concession, as well as the surface properties, and the concessionaire's compensation for the surface properties, which is determined by the National Property Administration.

### **Conclusion:**

We can say at the end of our study that in order to reconsider the pattern of exploitation of agricultural lands belonging to private state property, the Algerian legislator tried, through issuing Law No. 87-19, to avoid the mistakes that accompanied the self-management system and the agricultural revolution. A new method was formed to repair the structural reform of agricultural property belonging to the state, as a result of which, reliance was put on a legal pattern represented by the right to permanent usufruct of lands belonging to the private property of the state. This was an encouragement for producers to invest. However, due to the failure to achieve the desired goals of this law, the legislator came up with a new pattern for exploiting these lands, which is related to the concession right that was created in accordance to the Law No. 16-08 that is concerned with agricultural guidance, in addition to the Law No. 10-03 related to protecting agricultural lands and activating personal exploitation. Additionally, the methods for implementing this right were determined by issuing Executive

Decree No. 326-10. Through all of the above, we reached several results, the most important of which are the following:

1- The state confirms its ownership of the agricultural lands belonging to its private property, through a set of laws that regulate them, as it cannot be waived. This is a peculiarity that distinguishes agricultural lands belonging to the state's private property from the rest of its private property that is subject to transfer, and perhaps this is inevitably due to the strategic role of agricultural property as a source of self-sufficiency.

2- The permanent usufruct right as a pattern was stipulated in Law No. 87-19, which makes it a real right granted to producers to exploit agricultural lands in the form of agricultural investments collectively or individually and in common. Moreover, it is a sizeable, transferable, and assignable right in exchange for the payment of a royalty, with the state retaining the ownership of control.

3- The concession contract is a new pattern introduced by Law No. 10-03 to exploit private agricultural lands. It is an administrative contract that requires the availability of special formal and substantive procedures, according to which the state grants the investor who holds the concession a right to exploit the agricultural lands belonging to the state's private property, as well as the surface properties. This is in exchange for a royalty determined by the Finance Law, which is a temporary right subject to seizure, assignment and transfer.

However, due to the many shortcomings and practical obstacles of Law 10-03, we propose the following:

1- The legislator must review the texts of Law No. 10-03 relating to the preservation of the rights acquired by the beneficiaries of the permanent usufruct right within the framework of Law No. 87-19, considering their good use of the agricultural lands belonging to the private property of the state, unlike the beneficiary who neglected them through illegal actions.

2- Limiting the application of the concession law to the lands that were recovered and granted for exploitation after the Law No. 10-03 was entered into force.

3- Taking into account the opinion of farmers or their representatives about the most likely ways to exploit and manage the sector, as they are a party to the development equation.

#### **List of sources and references:**

##### **Books:**

1- Zarrouqi Laila, The Right to Permanent usufruct through Commentary on Article 65 of the Real Estate Guidance Law and Real Estate Disputes, Houma Publishing House, 2014.

### **Theses and notes:**

#### **Doctoral thesis:**

1- Harsh Muhammad, Agricultural investments from the usufruct right to the right of concession in the Algerian legislation, a thesis to obtain a doctorate degree in law, private law, Ben Youssef Ben Khadda University, Algiers 2, 2016-2017.

#### **Master's notes:**

1. Brik Zubair, The Legal System for the Agricultural Concession Contract in Light of the Amendments, a thesis for obtaining a master's degree, University of Algiers 2014, 2015.

2. Baqar Salamah, The Legal System of the Agricultural Investment, The Case of the Agricultural Investment, a dissertation for Obtaining a Master's Degree in Law, Department of Business Law, University of Algiers, Ben Aknoun Faculty of Law 2003-2004.

3. Bousbeyat Sawsan, a dissertation to obtain a master's degree in law, Department of Private Law, Real Estate Law Branch, Faculty of Law, Mentouri Constantine University, 2006-2007.

#### **Articles:**

1. Farsha Kamal, Farahi Imad Al-Din, exploitation of agricultural lands through the concession contract according to Law No. 10-03, the Ali Al-Fatimi model farm in Bordj Bou Arreridj, a field study, Journal of Legal and Political Research, issue 2, March 2020, Faculty of Law and Political Sciences, University of Setif2.

2. Lakhdar Chachaia, Exploitation of Agricultural Lands by Concession, Supreme Court Journal, First Issue, 2013.

#### **Legal texts:**

##### **- Legislative texts:**

1. Law No. 68-653 dated on 12/30/1968, including self-management in agriculture, O.G., No. 15 issued on 02/15/1969 (repealed).

2. Order No. 71-73 dated on 11/08/1971 relating to the agricultural revolution, O.G. No. 79, issued on November 30, 1971 (cancelled).
3. Order No. 75-58 dated on September 25, 1975, containing the Civil Code, O.G. No. 78, issued on September 30, 1975, amended and supplemented.
4. Law No. 87-19 dated on december 8, 1987, which includes regulating the method of exploiting agricultural lands belonging to national property and determining the rights and duties of producers, O.G. No. 50 issued on December 9, 1987 (repealed).
5. Law No. 91-11, dated on 04-27-1991, specifying the rules of expropriation for the public benefit, Law No. 91, issued on 05-08-1991.
6. Law No. 08-16 dated on 08/03/2008 containing the Agricultural Directive, O.G., No. 46, issued on 08/10/2008.
7. Law No. 10-03 dated on August 15, 2010, specifying the conditions and methods of exploiting agricultural lands that belong to the state's private property, O.G., No. 46 issued on August 18, 2010.

#### **Regulatory texts:**

1. Executive Decree No. 90-50, dated on 02/06/1990, specifying the conditions of preparing the administrative contract that proves the real estate rights granted to peasant producers under Law No. 87-19, dated on 12/08/1987 and its modalities thereof, O.G. No. 6, issued on 02/07/1990.
2. Executive Decree No. 97-490 dated on 12/20/1997 specifying the conditions related to the division of agricultural lands, O.G. No. 84 of 1997.
3. Executive Decree No. 10-326 dated on 12/23/2010 specifying the modalities of implementing the concession right to exploit the agricultural lands belonging to the private state property, O.G. No. 79 issued on 12/29/2010.

#### **References in foreign languages:**

#### **Circulations:**

- 1- Instruction No. 787 of 08/31/1989 regarding the reorganization of national domain lands, collection of legislative and regulatory texts about the reorganization of the national agricultural domain of agriculture C.N.D.A September, 1989.



## Bibliography List :

- <sup>1</sup> Law No. 87-19 dated on December 8, 1987, which regulates the exploitation of agricultural lands belonging to national property and determines the rights and duties of producers, Article No. 50, issued on December 9, 1987 (repealed).
- <sup>2</sup> Law No. 68-653 dated on 12/30/1968, including self-management in agriculture, O.J., No. 15, issued on 02/15/1969 (repealed).
- <sup>3</sup> Order No. 71-73 dated on 11/08/1971 relating to the agricultural revolution, O.J. No. 79, issued on November 30, 1971 (cancelled).
- <sup>4</sup> Law No. 10-03 dated on August 15, 2010, specifying the conditions and methods of exploiting the agricultural lands belonging to the state's private property, Article No. 46, issued on August 18, 2010.
- <sup>5</sup> Law No. 08-16 dated 08-03-2008, including the Agricultural Directive, O.J. No. 46, issued on 10/08/2008.
- <sup>6</sup> Executive Decree No. 10-326 dated on 12/23/2010 specifying the methods for implementing the concession right to exploit agricultural lands belonging to the state's private property, O.J. No. 79, issued on 12/29/2010.
- <sup>7</sup> Order No. 75-58 of September 25, 1975, containing the Civil Code, O.J. No. 78, issued on September 30 1975, amended and supplemented.
- <sup>8</sup> Zarrouqi Laila, *The Right to Permanent Enjoyment through Commentary on Article 65 of the Real Estate Guidance Law, Real Estate Disputes*, Dar Homah Publishing, 2014, p. 157.
- <sup>9</sup> Article 06 of Law 87-19 mentioned above.
- <sup>10</sup> Article 08 of Law No. 87-19 mentioned above
- <sup>11</sup> Article 06 of Law No. 87-19, mentioned above.
- <sup>12</sup> Articles 09-10-24 of Law 87-19, according to what is included in these legal texts, the conditions that must be met in the beneficiary of the permanent usufruct waiver process are being a worker in the agricultural sector, having an Algerian nationality, in addition to the approval of the remaining members of the collective agricultural investment before the transfer process in accordance with Article 25 of the same law. The waiver process does not take place until the state waives its right to exercise pre-emption, in accordance with Article 24 mentioned above. Additionally, the new partner is obligated to remain in the commonness, and it is not permissible for him/her or the investing members to demand division, which are the same conditions that must be met in the event that the permanent usufruct right is reserved and sold through a public auction. It is worth noting that all these conditions are, in fact, difficult to meet in real life.
- <sup>13</sup> Article 42 of Law No. 87-19 mentioned above.
- <sup>14</sup> Law No. 91-11, dated on 04-27-1991, specifying the rules of expropriating the public benefit, O.J. No. 91, issued on 05-08-1991.
- <sup>15</sup> Harsh Muhammad, *Agricultural Investments from the Usufruct Right to the concession Right in the Algerian Legislation*, a thesis to obtain a doctorate degree in Law, Private Law, Ben Youssef Ben Khadda University, Algeria 2, 2016-2017, p. 87.
- <sup>16</sup> Bousbeyat Sawsan, a dissertation to obtain a Master's degree in Law, Department of Private Law, Branch of Real Estate Law, College of Law, Mentouri University Constantine, 2006-2007, p. 90.
- <sup>17</sup> Executive Decree No. 90-50, dated on 02/06/1990, specifying the conditions of preparing the administrative contract that proves real estate rights granted to agricultural producers within the framework of Law No. 87-19, dated on 12/08/1987 and its procedures O.J. No. 6, issued on 02/07/1990.
- <sup>18</sup> Articles 3, 9, 10, and 37 of Law No. 87-19 mentioned above.
- <sup>19</sup> This condition was dropped pursuant to Ministerial Circular No. 476 of 10/13/1992, relating to the re-launch of the process of preparing administrative contracts.
- <sup>20</sup> Instruction interministérielle n 787 du 31/08/1989 relative à la réorganisation des terres du Domaine national, recueil de textes législatifs et réglementaires sur la réorganisation du Domaine agricole national de l'agriculture C.N.D.A septembre, 1989, p71.
- <sup>21</sup> Article 3 of Law No. 87-19 mentioned above, and also Article 2/3 of Executive Decree No. 90-50 mentioned above.
- <sup>22</sup> Baqar Salamah, *the legal system for investment in the agricultural field, the situation of agricultural investment*, a dissertation for obtaining a master's degree in law, Department of Business Law, University of Algiers, Faculty of Law, 2003-2004, p. 100.
- <sup>23</sup> According to Law No. 10-03, the conversion of a permanent usufruct right into a concession does not happen automatically by force of law, but rather requires the availability of certain conditions in the beneficiary, which are monitored by the granting authority. This law also introduced a new system in contracting that requires preparing a book of conditions by the National Office of Agricultural Lands before the process of issuing the concession contract.

<sup>24</sup> In the concept of Law 10-03, superficial properties mean the total properties attached to the agricultural estate, especially the buildings, plants and irrigation facilities. This is what was stipulated in Article 4/2 of Law No. 10-03 mentioned above.

<sup>25</sup> Farsha Kamal, Farahi Imad Al-Din, exploitation of agricultural lands through a concession contract in accordance with Law No. 10-03

Ali Al-Fatimi's model farm in Bordj Bou Arreridj, field study, Journal of Legal and Political Research, issue No.2, march 2020, Faculty of Law and Political Sciences, Setif University 2, p. 203.

<sup>26</sup> State Council Resolution No. 11950 dated on 03/09/2004, unpublished, referred to in the reference of Brik Al-Zubair, the legal system for the agricultural concession contract in light of the amendments, a dissertation for obtaining a master's degree, University of Algiers 2014, 2015, p. 14.

<sup>27</sup> Article 13 of Law 10-13 mentioned above.

<sup>28</sup> Article 5 of Law No. 10-03 mentioned above.

<sup>29</sup> Article 2 of the Executive Decree No. 10-326 mentioned above has referred to the most important documents attached to the application, which are: a copy of the original contract notarized by the Real Estate Governorate or the governor's decision, a copy of the boundary demarcation plan, or an extract land survey plan, in addition to other documents such as a copy of the national ID card and citizenship certificate, etc.

<sup>30</sup> Article 30 of Law No. 10-03 mentioned above.

<sup>31</sup> Article 06 of Law No. 10-03 mentioned above.

<sup>32</sup> Lakhdar Chachaia, Exploitation of Agricultural Lands by Concession, Supreme Court Journal, First Issue, 2013, p. 24.

<sup>33</sup> Executive Decree No. 97-490, dated on 12/20/1997 setting the conditions related to the division of lands Al-Falahiya, O.J., No. 84 of 1997.

<sup>34</sup> Articles 33, 34, 35 of Law No. 90-25 containing the aforementioned agricultural directive.

<sup>35</sup> Article 12 of Law No. 10-03, mentioned above.

<sup>36</sup> Articles 13 and 14 of Law No. 10-03 mentioned above.