

PRIVACY OF THE TERMINATION OF THE AGRICULTURAL CONCESSION CONTRACT WITHIN THE LAW 10/03



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Abstract:

The law No 10/03 of 15 August 2010, defining the terms and conditions of the exploitation of agricultural lands belonging to the private property of the state, has conferred on the Administration of national properties the power to unilaterally terminate the agricultural concession contract. This power is normally reserved to the judiciary in accordance with a specific procedure to be observed in the event of a breach by the concessionary of one or more of the contractual obligations, stipulated in the technical specifications book, annexed to the Executive Decree No. 10/326 of 23 December 2010. On the other hand, the concessionaire has been granted the right to go to court to seek the annulment of the termination of the concession contract or to call into question the amount of the compensation resulting from this termination.

Key words: *Agricultural Concession Contract; Unilaterally; Administration of National Properties; Concessionary; Contractual Obligations; Judicial Appeal.*

Introduction:

In order to optimize the exploitation of the agricultural lands belonging to properties of the state, in view with its destination and objectives as well as achieving the economic development of the country, the Algerian legislator reconsidered Law No. 10/03 that specifies conditions and modalities to exploit the property, besides considering the concession as a contract under which the state grants a natural person of Algerian nationality the right to exploit the agricultural land of its own property as well as the surface property related to it for a maximum of forty (40) years renewable, in exchange for the payment of an annual royalty

determined by the laws of finance. He has worked to achieve this by placing a set of reciprocal obligations in the book of specifications prepared in accordance with the provisions of Decree No. 10/326 specifying how to apply the concession right to exploit those lands.

The concession contract, similarly to other administrative contracts, ends once the specified period expires, and it may end prematurely in two cases either in advance at the request of the concessionaire, or by the administration when the concessionaire violates its contractual obligations, which is termed as administrative annulment, that is the authority granted by the legislator to manage national property directly without to resort to the judiciary. This has made it subject to appeal by the concessionaire to protect him from all forms of administrative abuse.

This study derives its importance mainly from the status and importance of state agricultural land, as the administrative annulment of the concession contract was initiated in order to preserve it and protect it from exploitation if the concessionaire violates its contractual obligations.

This study aims to address one of the legal issues related to the dismantling of the nodal bond on the one hand and to achieve the required balance between the legal centers of the parties to the agricultural concession contract on the other hand.

Accordingly, the following question can be asked:

What are the particularities set out by the Algerian legislator in order to annul the contract of agricultural concession in the light of the Law N° 10/03?

In order to answer this question, and relying on the descriptive analytical approach as appropriate to the ongoing study since it highlights many legal texts related to the subject of the study which requires many analytical and critical readings, this study was divided into two main topics. The first topic deals with the reasons for the administrative dissolution of the agricultural concession contract and its implications. The second topic deals with the procedures for administrative avoidance of the agricultural concession contract and its ability to challenge the judiciary.

THE FIRST CHAPTER:

The reasons for the administrative annulment of the agricultural concession contract and its Implications

In view of the economic importance of the agricultural lands belonging to the private properties of the state, the Algerian legislator surrounded them with an arsenal of laws in order to protect and preserve them. For example, the legislator established criminal penalties for anyone who changed their agricultural character or from their agricultural destination (Art 87 of Law No. 08/16, 2008, p. 04), and considered it one of the reasons that entitles The National Property Administration the power to rescind the administrative contract for the concession granted on those lands, which we will try to explain through the following sections.

Section I: The reasons for the administrative annulment of the agricultural concession contract.

The legal texts governing the agricultural concession contract have placed on the investor (the concessionaire) a number of obligations, which he undertakes to respect in advance by signing the concession booklet on the agricultural lands belonging to the private properties of the state. These texts considered that failure to respect these contractual obligations is a violation. This leads to resorting to the termination of the concession contract by the granting administration by administrative means. Law N° 10/03 of August 15, 2010, which specified the conditions and modalities for the use of agricultural lands belonging to the private properties of the state (Law No. 10/03, 2010, p. 04), specified particular cases of a violation of the concessionaire's obligations and added to Decree No. 10/326, dated 23/12/2010 which has been selected for the application of modalities for the concession to exploit the agricultural land of the private property of the state (Executive Decree No. 10/326, 2010, p. 11), other cases, that we explain as follows:

Sub section 01: Cases of the concessionaire breaching his obligations according to Law No 10/03.

In Law No. 10/03, the Algerian legislator stipulates four cases that constitute a breach of the concessionaire's obligations:

A- The transformation of the agricultural vocation of land and/or surface property

Agricultural lands or areas of agricultural destination are defined as "every land produced by human intervention annually or during several years of production that is consumed by humans or animals, or directly consumed in industry or after its transformation." (Article 04 of Law No. 90/25, 1990, p. 1560). To maintain this agricultural function of the land, any non-agricultural use of it and of the surface related to it is likely to make it lose its agricultural character (Mostfaoui, 2017, p. 19). The agricultural nature of the land is determined according to the construction tools in accordance with the Development and Reconstruction Law (Hamdi Bacha, 2012, p. 139), and it is considered of Agricultural nature. "All activities related to the control and exploitation of the biological cycle of a plant or animal nature that constitute one or several necessary stages of the process of this session, as well as the activities that take place throughout the work of production, in particular storage of plant material or animal packaged and marketed when converted and when these materials come exclusively from the investor " (Article 45 of Law No. 08/16, 2008, p. 04).

It is only the law that authorizes the conversion of Agricultural lands and defines the modalities of conversion and its procedures by way of regulation in accordance with the legislation in force in all classes of peasant lands (Article 36 of Law No. 90/25, 1990, p. 1560). "Every activity, technique or achievement must contribute to raising the productive capacity in agricultural investments regardless of the legal type of the real estate wealth concerned" (Article 33 of Law No : 90/25, 1990, p. 1560), and the conversion of the agricultural vocation for land and/or surface properties is considered a violation of the concessionaire's obligations, and is considered a reason for the dissolution of the concession contract by administrative means by the National Property Administration (Art 29 of Law No. 10/03, 2010, p. 04).

The Algerian legislator has replaced the wali's intervention in the event of changing the agricultural character of the lands according to the old laws, by managing the national properties in coordination with the National Office of Agricultural Lands in order to supervise and control the investor's failure to comply with his duties under the specifications booklet embodied in the concession system (Deghich, 2014, p. 100).

B- Non-exploitation of land and / or surface property during a period of one year

In view of the economic importance and the social function entrusted to agricultural lands, there is no way to achieve this except by using an agricultural exploitation that preserves its nature and destination, private to agree that lead the legislator to consider the failure to invest the private lands for at least two

agricultural seasons an arbitrary use of the right, which gives the right to the state that it may intervene to protect those lands (Article 48-51 of Law No. 90/25, 1990, p. 1560). Also, "making the exploitation of agricultural activity an imperative to every owner of a property of an agricultural nature, and to every owner of real right related to an agricultural property, as well as on the detainer of an agricultural land" (Khalfouni, 2012, p. 393).

As for the agricultural lands belonging to the private properties of the state object of concession, and as long as the state owns them, it must protect them and maintain their agricultural vocation and exploit them in a manner consistent with their social function, by exercising control over them according to the powers conferred upon them legally (Zerrouki & Hamdi Bacha, 2014, p. 118).

The law has granted the National Bureau of Agricultural Lands – as a supervisory body representing the state – the right to exercise control over agricultural investments at any time to ensure that the activities in which they are carried out are in conformity with the provisions of Law No, 10/03 (Art 27 of Executive Decree No. 10/326, 2010, p. 11). This is in addition to the presence of several other bodies at the central and local levels entrusted with the task of ensuring the optimal and legal exploitation of the public agricultural property such as: the Council of Ministers, the Ministry of Agriculture, the Supreme Council of Agriculture, the governor, the Directorate of Agricultural Interests (Mahmoudi, 2019, p. 183 and beyond).

The passage of a period of one year without the exploitation of agricultural lands and/or surface properties belonging to the private properties of the state granted in the concession is a violation of the contractual obligations by the concessionaire, and a justification for the management of the national properties to resort to termination of the concession contract by administrative means as the body granting it (Art 29 of Law No. 10/03, 2010, p. 04).

C- Sub-leasing of land and/or surface property

The investor of the concession is obliged by the law, with the right to concession to take advantage of the actual use of agricultural lands in a personal and direct capacity. He is not entitled to use them for any other purpose (Article 20 of Law No : 08/ 16, 2008), even though the investor has the right to freely exploit the land and surface property placed at his disposal (Article 02 of specification booklet Appendix, 2010, p. 17).

The Algerian legislator banned the sub-lease of agricultural land and/or surface property (except in hay pastures) (Article 54 of Law No : 90/25, 1990), considering it one of the reasons for the avoidance of the concession contract by the donor administration (Article 08 of Specification Booklet Appendix, 2010, p. 17), where the National Bureau of Agricultural Land can exercise control over agricultural investors periodically or suddenly in order to determine – on the

ground – the extent to which the obligations of the investor are met, in particular the control of legally prohibited sub-lease cases (Mahmoudi, 2019, p. 200).

If the field inspection reveals that there is a case of subletting of lands and / or surface properties, then the National Property Administration shall be notified of the breach, so the procedures for the cancellation of the concession contract shall be carried out (Article 28 of Law No. 03/10, 2010, p. 04).

D- Non-payment of royalties after two consecutive years.

The investor holding the concessionaire shall pay an annual royalty in the deadlines set for it in exchange for his exploitation of the agricultural lands granted to him (Mostfaoui, 2017, p. 20). Article 04 of Law No. 10/03 provides that determining the amount of this royalty shall be in accordance with the financial laws, and with the issuance of the supplementary Finance Law of 2010. In its 41st article, it provides that the method of calculating the annual royalty amount in exchange for the exploitation of agricultural lands belonging to the private properties of the state has been determined by regions (irrigated or not irrigated) (Article 41 of Ordinance No. 10/01, 2010, p. 04), and Executive Decree No. 12/124, specifying areas with agricultural potential for the lands on which a royalty is calculated. State property entitles Concession over lands belonging to the private property of the state (Article 02 of Executive Decree No: 12/124, 2012, p. 08).

The National Property Department collects royalties from the date of the signing of the concession contract (Article 7-8 of Executive Decree No. 12/124, 2012, p. 08), and is paid in installments in time to the regionally competent State Property Inspectorate Fund, and the investor periodically sends the concessionaire to the National Land Office justifications for the payment of royalties; If it is not paid for two consecutive years, the National Property Administration initiates the administrative avoidance of the concession contract (Article 09 of specification booklet Appendix, 2010, p. 17).

In addition to the obligation of the concessionaire investor to pay the annual royalty amounts when deadlines approach, he is also obliged to pay the fees and other expenses to which the property may be subject for the duration of the concession (Article 03 of Specification Booklet Appendix, 2010, p. 11), knowing that the preparation, registration and real estate month of the contract is exempted of all expenses and fees (Article 08 of Law No. 03/10, 2010, p. 04).

It is notable that the amount of royalty is considered to be small against the value of the use of agricultural land, due to the state's desire to encourage farmers to serve, exploit, protect and raise their value and productivity, which leads to the contribution of the agricultural sector to the development of the national economy (Chikh, 2018, p. 66).

Subsection 02: Cases of the concessionaire's breach of the his obligations, according to Executive Decree N°10/326

In addition to the breaches of the concessionaire's obligations mentioned in Law No. 10/03, article 08 of the specifications booklet for the burdens and conditions of the concession on agricultural land and surface property belonging to the State's private property, which is attached to Executive Decree No. 10/326, came in three other cases:

A/ Construction in the land without a permit from the National Bureau of Agricultural Land's authorization

The law grants the concessionaire the right to exploit the land and surface property at his disposal for agricultural purposes, and to carry out all the necessary preparation and/or construction for better land use, provided that this takes into account the compliance of the legislative and regulatory procedures provided in this area (Article 52 of Law No. 90/29, 1990, p. 1652). The Algerian legislator stressed that the investor must obtain, and before any of the preparation and construction work is initiated, a prior authorization from the National Land Authority, which in turn informs the State property administration (Article 02 of specification booklet Appendix, 2010, p. 17).

Therefore, the preparation and construction work must be linked to the objectives related to the agricultural nature of the land and not lead to a change in its agricultural orientation. In the same context, it must obtain prior authorization from the National Land Office. Otherwise, the concession contract is canceled at the initiative of the donor administration (Tekok & Yahiaoui, 2015, p. 423).

Nevertheless, the aim of obtaining prior building permits from the National Bureau of Agricultural Land is to protect agricultural land, monitor the extent of its status under agricultural exploitation or not, and the extent to which its character is preserved, which is one of the core tasks assigned to this public body (Khalfouni, 2012, p. 392).

B/ False statements and not declaring partnership agreements or assigning the right to concession

B1-False declaration and non-authorization of partnership agreements

Among the rights enshrined in the law under the concession is the possibility of the agricultural investor concluding a partnership as a mechanism for the investment of agricultural land belonging to the private property of the State (Mahmoudi, 2019, p. 167).

The partnership in the agricultural field is defined as "an agreement in which each partner contributes with a part of the means of production according to an investment program controlled by the National Bureau of Agricultural Land with the aim of augmenting, valuing and increasing the productive capacities of the

investor and modernizing it, provided that the original concessionaire remains a contributor to the work of the Invested" (Joint Ministerial Circular No. 1809, 2017).

The law has set conditions for the preparation of the partnership contract, including that it is subject to nullity under a well-known official contract, and must be with natural persons of Algerian nationality or entities subject to Algerian law. Also, all shareholders should have Algerian nationality, and the notary in charge of documenting the partnership contract should inform the National Bureau of Agricultural Land (Article 21 of Law No: 10/03, 2010, p. 04), and respect the procedures for its preparation and its contents according to the law (Article 26 of the Executive Decree : 10/326, 2010, p. 11).

Therefore, failure to declare a partnership agreement concluded by the concessionaire, or to make false statements about it is a breach of its contractual obligations, and grants the right of the National Property Administration to initiate the termination of the concession contract (Article 16 of the Executive Decree : 10/326, 2010, p. 11).

B2-False declaration and non-authorization of assignment of the concession right

Among the rights granted by the law to the investor who has the right to concession is the possibility of conceding the concession, whether in return of compensation or for free (Articles 13 and 14 of Law No. 10/03, 2010, p. 04). However, he has set conditions and procedures for this waiver that must be respected and followed, including informing the National Bureau of Agricultural Lands, clarifying the amount of the assignment, as well as the identity of the candidate to acquire the concession, so that the rest of the members of the invested land or the National Office of agricultural Lands can exercise the right of preemption - if they wish to do so - according to the legislation in force (Article 17 to 22 of the Executive Decree : 10 /326, 2010, p. 11).

Therefore, failure to authorize the waiver of the concession, or to make false statements about it is a breach of the obligations of the concessionaire, and entitles administration to initiate proceedings to terminate the concession contract (Article 16 of the Executive Decree : 10/326, 2010, p. 11).

C/ The absence of direct and personal management of the investor

Actual direct or indirect investment is the duty of every owner of real estate rights or holder, whether natural or moral (Article 48/2 of Law No. 90/25, 1990, p. 1560). The investors who have the concessioner must manage their agricultural investments directly and personally. If the agricultural investor is formed by several investors with a concession, they must a non-binding agreement for third-party, determine their relations with regard to the way or methods of participation of each of them in the work of the agricultural investor (Article 22 of Law No:

10/03, 2010, p. 04), provided that this agreement is not contrary to the provisions of Law No. 10/03, and is intended to participate in the work of the agricultural investor in a personal and direct manner; "every effort made by the concessionaire investor benefits the farmer's practice of activities" (Chikh, 2018, p. 63).

The administration and exploitation of agricultural land and attached surface land must be carried out on a regular and permanent basis and in accordance with the provisions of the applicable legislation and the provisions of Law No. 10/03, as well as to the terms, conditions and obligations specified in the specifications booklet as mentioned in the Executive Decree No. 10/326, and the contractual obligations specified under the agreement between the members of the single agricultural investor (Article 23 of Law No. 10/03, 2010, p. 04).

It's worth saying that the concessionaire may not claim his share of the profits resulting from the collective agricultural investor's actions, unless he participates in such acts personally and directly within the collective framework (Chikh, 2018, p. 64).

The Law N° 03/10 does not expressly state that the absence of the direct and personal management of the investor is a violation of the obligations of the investor with the right of concession leading to the annulment of the concession contract, contrary to the Executive Decree No. 10/326 applied to him, who considered the absence of direct and personal management of the farmer to be one of the reasons for the cancellation of the concession contract by the National Property Administration (Article 08 of Specification Booklet Appendix, 2010, p. 17).

Section 2: The effects of the administrative annulment of the agricultural concession contract

A concession investor's breach of one or more of his obligations results in the cancellation of the concession contract by the granting administration and by administrative means without the need to resort to the judiciary. The cancellation of the concession contract results in the restitution of the agricultural lands and/or surface properties subject to the concession by the state, as the owner benefitting the investor has the right to compensation for the establishments he built on those lands, and this will be detailed in the following:

Sub section 01: The state's restoration of lands and / or surface properties granted under the concession

The concession is a contract that authorizes the owner of the right to use the agricultural lands belonging to the private property of the state as well as the related surface properties. Therefore, the lands and related properties are taken into account, and they are recorded in specifications booklet signed by the investor and the National Bureau of Agricultural Lands, where the investor is supposed to be

the owner (the investor) and is fully informed of the value of the property granted to him (Article 06 of Executive Decree No. 10/326, 2010, p. 11). The inventory count of the concession granted in the framework of the concession is also considered a mechanism to protect the agricultural lands belonging to the private properties of the state and the related property, as it is easy to monitor and control by the National Bureau of Agricultural land (Mahmoudi, 2019, p. 198).

In the event of the end of the concession contract, the first consequence of this is the restitution of the property granted in the concession to the state it is in its capacity as its original owner. In the event of the end of the concession contract through administrative annulment, the law provides for the devolution of all property, including used stores for housing to the state (Article 08 of Specification Booklet Appendix, 2010, p. 17)

Besides, the National Bureau of Agricultural Land shall ensure the recovery of the donated land and/or surface property, based on the list of properties registered in the assets granted, in addition to the property completed by the investor after the granting of the concession in order to give profit ability to agricultural land and surface property, including shops of a residential nature (Article 05 of Executive Decree No: 96/87, 1996).

Sub section 02: The right to compensation for property performed by the concessionaire

According to the text of Article 26 of Law N⁰ 10/03, it has enumerated the termination of the concession and stated that in all cases the State is restitutes of the land and surface property granted to the investor. It also absolutely states that at the end of the concession, he shall have the right to compensation; that the avoidance of the concession contract when the concessioner has breached his obligations also requires such compensation (Article 26 of Law No. 10/03, 2010, p. 04).

The annulment of the concession contract entails the investor's right to benefit from monetary compensation for the surface property he has made on the agricultural land granted to him. The administration of state property determines the value of this compensation minus 10% compensation in case the concessionaire violates his obligations in order to Reform, as deducted from compensation debts due with the administration of state property and debts of the State and bank debts (Joint Ministerial Circular No. 1809, 2017). The amount of this compensation accepts an appeal before the competent judicial authority (Article 08 of Specification Booklet Appendix, 2010, p. 17), which is the competent administrative court regionally in case the investor wishes the concessionaire to review the amount of compensation estimated by the manager of state property, if it considers it unfair to what it has achieved over the agricultural land of the state's

private property granted to it in the context of investment through concession (Boumedjan, 2017, p. 323).

On the other hand, the value of concessions and mortgages granted by the loan bodies established by the investor, charges that weigh the real estate right resulting from the concession, also includes the amount of compensation specified by the State Property Administration (Article 27 of Law No. 10/03, 2010, p. 04). It should also be noted that there is no right to compensation resulting from the activity of the agricultural investor, except for the investors who participated in a personal capacity and directly in its work and in accordance with the collective framework (Chikh, 2018, p. 64)

However, there are those who consider it illogical to compensate those who have breached their obligations, especially if they have committed acts that have been criminalized by the Agricultural Guidance Act No. 08/16, such as changing the agricultural destination and/or related surface property (Brik, 2014/2015, p. 52).

THE SECOND CHAPTER:

Procedures for the administrative annulment of the agricultural concession contract and its susceptibility to judicial appeal

The Algerian legislature obliged both the State Property Administration and the National Bureau of Agricultural Land in the event of termination of the concession contract through administrative amulet to observe the procedures provided for by law in this context, and made this amulet subject to judicial review, and obliged the investor to follow steps Specific to this appeal (Article 28 of Law No. 03/10, 2010, p. 04). This will be explained as follows:

Section 1: Administrative annulment procedures for the agricultural concession contract

The administrative annulment of the concession contract is not initiated immediately by the National Property Administration, but there are procedures stipulated by law preceding this annulment that must be taken, and they are represented in field and administrative procedures, which will be dealt with as follows:

Sub section 01: Field procedures for the annulment of the agricultural concession contract

The procedures prior to the administrative annulment of the concession contract are:

- Set of inspections carried out by the judicial record at the request of the National Bureau of Agricultural Land.
- Editing a case record or inspection report in accordance with Law (Boumedjan, 2017, p. 323).
- In accordance with this record, the investor shall be notified by the investor who violates his obligations by the National Land Authority, and shall be informed by law in order to comply with the provisions of the Concession Act and the specifications booklet (Article 28 of Law No. 03/10, 2010, p. 04).

Sub section 02: Administrative procedures for the annulment of the agricultural concession contract

In the area of the exploitation of agricultural land belonging to the private property of the State through concession, the law granted important and many powers to both the National Bureau of Agricultural Land and the Department of National Property, starting with the granting of the concession, and then controlling it until the end (Law No. 10/03, 2010, p. 04).

In this vein the Algerian legislator singled out the end of the concession contract through administrative dissolution by certain administrative procedures to which the National Land Office and the Department of National Property are committed:

A/ The offense of breach by the National Office of agricultural Lands

On the basis of the inspection report prepared by the judicial record, the National Office for Peasant Lands shall notify the investor legally in order to fulfill its obligations, correct the breaches on the agricultural lands and comply with the provisions of Law No. 03/03, and the specifications booklet during a specific time period (Deghich, 2014, p. 100), knowing that the Algerian legislator has not been exposed how to direct and notify a service. Hence, would it be communicated through a report transcript written by a court transcript? Or by a letter of guaranteed arrival, sent by the National Office agricultural Lands? (Boumedjan, 2017, p. 314). However, it stipulated that the notice should be notified by law, which is likely to be done through a report minutes prepared by the judicial record, and delivered to the investor with the concession violating his obligations (Article 28 of Law No: 08/09, 2008, p. 03).

In the event that the concessionaire investor does not comply after the 60-day period mentioned in the legally stated notifications, the National Land Authority is required to notify the National Property Administration (Article 28 of Law No. 03/10, 2010, p. 04).

B/ Notification of the National Property Administration by the National Office of Agricultural Land

In the event when the investor does not comply with the law and the specifications booklet during the period granted to him in the notice, the National Office of Peasant Lands shall notify the National Property Administration of this through an administrative correspondence attached to the breach and exclusion inspection report (Article 28 of Law No. 03/10, 2010, p. 04), so that the National Property Administration dedicates the end of the concession by canceling the concession contract by administrative methods (Joint Ministerial Circular No. 1809, 2017).

C/ The termination of the concession contract by the National Property Administration

The authority to terminate the concession contract is considered the prerogative of the judiciary (Article 515 of Law No. 09/08, 2010, p. 03), but the Algerian legislator, in an exception, granted to the National Property Administration as the awarding body for the right to concession, to notify the investor holding the concession (Article 28 of Law No. 03/10, 2010, p. 04), taking into account the month of the abrogation of the concession contract at the level of the real estate province because the concession is one of the rights in kind real estate whose documents must be declared in (Article 14 of Ordinance No: 75/74, 1975, p. 1206). This has also been confirmed by Law N°. 10/03 (Article 8 and 10 of Law No. 10/03, 2010, p. 04).

The termination of the concession contract by administrative means is to terminate the management of the national property of the contractual relationship of its sole will by issuing an administrative decision in the event of a serious breach of the contract (the concessionaire) of its contractual obligations under the clause (Article 08 of Specification Booklet Appendix, 2010, p. 17).

Section 2: the susceptibility of the decision of the administrative annulment of the contract of agricultural concession to be subject to judicial appeal

It is noted that the legislator, through the text of Article 28 of Law N° 10/03, has established a legal rule requiring the National Property Administration to terminate the concession contract by administrative means. The investor who objected to the loss of his right must only appeal to the competent judicial authority in two months from the date of notification of the annulment of the concession contract by the National Bureau of Agricultural Land, which will be examined as follows:

Sub section 01: The competent judicial authority to review the appeal

The process of determining jurisdiction has "to do with the means of determining the judicial body competent to adjudicate the existing dispute, whether ordinary or administrative" (Boumedjan, 2017, p. 318). The administrative judiciary is concerned as a general principle for the resolution of disputes to which the public administration is a party, and this is in application of organic criterion (Article 800 of Law No. 08/09, 2008, p. 03).

However, the Algerian legislature can make an exception that may not adhere to the organic criterion, and grants the authority to adjudicate in some disputes to which the state or one of its bodies is a party to the ordinary judiciary (Article 802 of Law No. 08/09, 2008, p. 03). The knowledge of the competent judicial authority, materially and regionally, must be examined by considering the challenge to terminate the concession contract carried out by the National Property Administration.

A/ Specific competence/jurisdiction

It's clear that Law No. 03/10 granted the State Property Administration the authority to issue a decision to annul the contract of agricultural concession in the event of the concessionaire's investor in breach of his obligations. Accordingly, the administrative judicial authorities represented in administrative courts have jurisdiction to settle disputes arising from the annulment of the concession contract. These claims are mainly in a lawsuit revoking the annulment decision, and in the compensation claim filed by the owner of the concession contract to redress the damages incurred by him as a result of the annulment (Boumedjan, 2017, p. 312).

B/ Territorial competence/jurisdiction

It is not enough for the investor to file his lawsuit against the administrative decision to annul the contract of concession issued by the State Property Administration before any administrative court, rather, he must file it before the locally competent administrative court. Otherwise, his case will be rejected on the basis of lack of jurisdiction. Within its jurisdiction, the place of concluding or executing the contract, whatever its nature (Article 803 of Law No. 08/09, 2008, p. 03).

In application of the text of Article 803, the competent administrative court is the court in whose jurisdiction the state property concludes the concession contract with the concessionaire investor. Inevitably, the agricultural lands belonging to the private state property that is the subject of the concession contract are regionally affiliated with the State Property Department.

Sub section 02: The Appeal procedures before the administrative judicial authority

It should be noted that the determination of the competent judicial authority results in the necessity of clarifying the procedures to be followed in filing the lawsuit before it, as well as the procedures followed by that judicial authority to adjudicate the lawsuit before it. Since it was concluded that the lawsuit brought by the investor who objected to losing his right (granted to him by concession) by canceling that contract, it will be before the administrative judicial authority, so it is necessary to clarify the procedures followed in that, as well as the legal time limits thereto.

A/ The procedures followed in the appeal.

The decision containing the administrative annulment issued by the National Property Administration is subject to appeal according to a lawsuit filed by the concessionaire investor before the regionally competent administrative court, taking into account the legal deadlines for personal notification or non-notification of decision (Article 28 of Law No. 03/10, 2010, p. 04).

Besides, lawsuits against administrative decisions relating to the annulment of administrative contracts shall be within the jurisdiction of the Legislative Judge (Article 801 of Law No. 08/09, 2008, p. 03). The administrative judge has the power to revoke the administrative decision containing the annulment of the concession contract if it was stained with one of the legality defects, such as its unlawfulness, its violation of the law, or its lack of respect for the formalities legally stipulated by a judicial ruling that can be appealed before the council of state (Boumedjan, 2017, p. 323).

Furthermore, the lawsuit is filed by the person having the quality interest and capacity (Articles 13 and 64 of Law No. 08/09, 2008, p. 03) to represent the Minister of Finance in cases relating to state property filed before the courts and councils (Article 01 of the Ministerial Resolution, 1992, p. 13), under a written petition containing the formalities stipulated in the civil and administrative law procedures (Articles 14 to 17 of Law No. 08/09, 2008, p. 03).

It is worth mentioning that the declaration of the lawsuit aimed at nullifying the annulment of the concession contract in the real estate province in accordance with the laws relating to the establishment of the land registry, and that declaration is confirmed by the visa application or by certificate of the real estate governor (Article 85 of Executive Decree No. 76/63, 1976, p. 498).

B/ The legal deadlines for appeal

The law specifies the time limit of the appeal against the decision to annul the concession contract issued by the National Property Administration before the competent judicial authority for two (02) months. Its calculation begins from the

date of notification of the annulment of this contract to the concerned by the National Bureau of Agricultural Lands (Article 28 of Law No. 03/10, 2010, p. 04), and the full deadlines are calculated according to Law (Article 405 of Law No. 09/08, 2008, p. 03).

However, law No. 03/10 did not explain how the concessionaire investor is notified of the decision to annul the concession contract by the National Office for agricultural Lands, which means that he is notified by any means of advertising (i.e. by: judicial record, postal letter, administrative employee, or handing over the administrative decision to the concerned person). Individuals are notified of the content of the administrative decision issued against them on the condition that this declaration includes comprehensive elements of the administrative decision, and that the correct declaration leading to full knowledge of the contents of the decision and its reasons is achieved, in order to enable the interested person to know the decision And determine their position on it (Articles 35 to 37 of the Decree: 88/131, 1988, p. 1013).

Conclusion:

Based on the above, it can be concluded that the State has allowed and enabled the exploitation of its agricultural land belonging to its own property through the concession contract governed by Law No. 10/03. Executive Decree No. 10/326 has made it clear how this is applied, given the importance and ability of this type of agricultural property. To contribute to the development of the national economy, the State has taken great care to protect and preserve its agricultural character, through the legal provisions governing the concession contract, as well as the sanctions resulting from its breach, as it has granted the State property administration the power to administratively dissolve the concession contract without the need to resort to the judiciary in the event of a breach. The concessionaire assumes his obligations having been granted the right to judicial appeal in the event of objection to the decision of annulment or to the amount of compensation resulting from such dissolution.

Through this study, we have come up with several conclusions, including:

1. The investor is informed in advance of the obligations incumbent to him, and the penalties imposed on him for breaching them on the basis of the specifications booklet for the purpose, which reinforces the principle of transparency, constitutes a guarantee for the investor on the one hand, and an argument on which the granting administration is based when directing the avoidance proceedings on the other.

2. In order to protect against administrative arbitrariness, the relevant legal texts granted to each agricultural investor the right to appeal judicially against the

decisions of annulment, and the right to claim the damages necessary to compensate for the damages resulting from that avoidance.

3. The original principle is that the authorities may annul the administrative contracts owned by the judiciary, which is the core of its competence. In violation of this principle in order to raise the productivity of the agricultural lands belonging to the private properties of the state and good use of them, it has been decided by the law to manage the national properties to initiate the dissolution of the agricultural concession contract as an exceptional authority.

4. The termination of the concession contract does not lead the investor as an individual or a group to stop the systematic exploitation of agricultural land and/or surface properties related to the subject of the concession and by putting it under exploitation by the National Bureau of Agricultural Land.

5. The criminalization of changing the agricultural character or the agricultural destination of the state-owned agricultural property and enacting negative penalties and financial penalties for the perpetrators of those crimes.

The administrative annulment of the agricultural concession contracts is considered one of the most effective forms of control over the exploited agricultural investors in the agricultural lands belonging to the private properties of the state. It is also one of the mechanisms approved by the legally qualified oversight bodies to achieve the desired goals of the Algerian legislator to improve the agricultural work and develop its returns through the optimum exploitation of those agricultural lands.

To render effective the ongoing monitoring of legally qualified bodies, some recommendations are proposed:

- * The need to have a permanent and continuing control over the agricultural property of the state and to tighten it to ensure its exploitation and not changing the agricultural destination of the land.

- * Empowering the National Bureau of Agricultural Land by all human and material means to carry out its tasks.

- * The need for administrative, financial and technological assistance by the state to investors in order to fulfill their obligations and to develop the agricultural sector.

- * Respect for the agricultural character and agricultural destination of the lands belonging to the private property of the state by the state itself.

- * Increasing the penalties for those who intend to exploit the agricultural property or to change its agricultural destination.

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