



Tourism Exploitation Concession Contracts for Beaches in Algerian Legislation

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Abstract:

The Algerian legislator has introduced a legal framework governing the use and exploitation of beaches as part of the state's public natural domain. Algeria has a vast coastline stretching 1,622 kilometres. To this end, the legislator has adopted the concession as a mechanism for the tourism exploitation of beaches. The most important provisions are set out in Law No. 03-02 of 17 February 2003, which establishes the general rules governing the tourism use and exploitation of beaches. This law has been amended and supplemented by Law No. 25-07 of 19 July 2025, as well as Executive Decree No. 04-274 of 5 September 2004. The latter lays down the conditions for the tourism exploitation of beaches open to swimming and the procedures for implementing such exploitation.

This study examines the legal framework governing the tourism exploitation concession of beaches in Algerian legislation. Our goal is to define the concept of a beach tourism exploitation concession contract and the rules governing its grant. This will enable us to evaluate the extent to which the legal system governing the use and exploitation of beaches contributes to the expected economic returns of tourism exploitation concession contracts, which necessarily interact with various economic, social and environmental considerations.

Keywords: concession contract, tourism exploitation, beaches, public natural domain, Algerian legislation.

Introduction

In recent years, Algeria has become increasingly reliant on concession contracts in various sectors, including tourism, to drive comprehensive development and establish tourism as a key pillar of the national economy. Improving tourism necessarily requires attention to be paid to beaches, as these are the most significant natural resource along Algeria's 1,622-kilometre coastline¹. To this end, Law No. 03-02 of 17 February 2003 concerning the determination of the general rules governing the use and exploitation of beaches for tourism purposes enshrined the concession mechanism as a framework for the use and exploitation of beaches for tourism

¹- Law No. 10-02 of 29 June 2010, which approves the national land-use planning scheme (schéma national d'aménagement du territoire), Official Gazette (J.O.), issue 61 of 21 October 2010.



purposes². In this regard, the concession contract for the exploitation of beaches in Algeria is one of the newer contractual forms in the field of administrative activity.

The importance of this study stems from the nature of the concession contract and its role in the exploitation of beaches for tourism purposes. In practice, it is the only method for using and exploiting beaches as part of the state's public natural domain. This exclusivity is due to the fact that public assets of the state, particularly natural ones, must be managed appropriately to ensure their effective use and exploitation and to support economic development in the coastal tourism sector. These outcomes also reduce the administrative and management burden on the state and territorial collectivities. Furthermore, the effectiveness of the concession approach in promoting tourism development has been demonstrated in several leading tourism destinations, including France, Spain, Italy and Tunisia.

The objective of this study is also to clarify the legal framework governing concession contracts for the exploitation of beaches for tourism purposes. This is particularly important given the recent incorporation of the concession mechanism into the tourism use and exploitation of beaches in Algeria.

Hence, the following research problem was formulated:

In light of the developments in the provisions of Law No. 25-07 of 19 July 2025, amending and supplementing Law No. 03-02 of 17 February 2003 concerning the determination of the general rules governing the tourism use and exploitation of beaches, to what extent has the Algerian legislator succeeded in regulating the legal framework governing tourism exploitation concession contracts for beaches?

To address the issues connected with this study, two methodological approaches were adopted descriptive and analytical — each according to its appropriate scope of application, by clarifying concepts and analysing the relevant legal texts.

Based on the foregoing and within the framework of the study and analysis of the research problem, the present research is divided into two main sections: the first section addresses the concept of the tourism exploitation concession contract for beaches, while the second section examines the rules governing the grant of such concessions.

Section One: The Concept of the Tourism Exploitation Concession Contract for Beaches

The Algerian legal system only recently adopted the concession mechanism for the tourism exploitation of beaches, in comparison with other public facilities. Accordingly, this section will seek to:

- define the tourism exploitation concession contract for beaches (first); and
- examine the legal basis for enshrining the concession mechanism in the tourism exploitation of beaches.

First: Definition of the Tourism Exploitation Concession Contract for Beaches

Within this subsection, we will address:

- 1) the definition of the tourism exploitation concession contract for beaches; and

²- Law No. 03-02 of 17 February 2003, which establishes the general rules for the use and tourist exploitation of beaches (Official Gazette, issue 11, 19 February 2003).



The characteristics of the tourism exploitation concession contract for beaches.

Definition of the Tourism Exploitation Concession Contract for Beaches:

An administrative concession contract may be defined as follows: ‘a contract or agreement whereby the granting authority — whether the state, the wilaya or the municipality — entrusts a natural person (an individual) or a legal entity under public or private law (for example, a municipality or a company) with the management and operation of a public utility for a specified period.’ The concessionaire manages this utility using their own staff and resources, and bears the resulting liability. In return for managing the public utility, the concessionaire receives a financial consideration, as specified in the contract and paid by the utility’s users.³

However, the enshrinement of the concession mechanism for the tourism exploitation of beaches as a form of public national domain property leads us to seek a definition of the tourism exploitation concession contract for beaches. In this respect, Algerian legal scholarship has largely refrained from providing a specific definition comparable to its treatment of concession contracts relating to public domain property. Indeed, such scholarship has characterised that contract as follows: “The agreement concluded between the administration and one of the individuals, with the aim of carrying out an extraordinary activity relating to a portion of public property allocated for the use of public assets, under the legal and financial responsibility of the obligated party, in exchange for the latter’s collection of fees from the users of this property.”⁴

It has also been defined as: ‘an administrative contract whereby the public authority permits a natural or legal person to temporarily and exclusively occupy a portion of public property in order to achieve a specific objective, in exchange for a specific payment.’⁵

This prompts us to refer to the French doctrinal definition of the beach concession contract. The latter considers it to be: ‘a contract under which a public legal person grants the exploitation of a beach belonging to the maritime public domain to the concessionaire (generally the municipality) in exchange for the payment of fees (*redevances/rights*)’.⁶

From this definition, it follows that a beach concession — being a maritime public-domain asset is granted by a public legal person for the benefit of a person who is most often a municipality, in return for the payment of concession fees.

Similarly, Algerian courts have not dealt with a specific definition of the tourism exploitation concession contract for beaches, except for their definition of the concession contract relating to public domain property⁷. By contrast, French courts have considered beach concessions to

³- Ammar Boudhraf, *Explanation of Public Procurement Contracts Regulation*, Jisour Publishing and Distribution, Algeria, 2011, p. 98.

⁴- Ahmed El-Nouai (or Ahmed An-Nouai), *The Legal Regime of Public National Assets in Algerian Legislation*, PhD Thesis in Law Sciences, Specialisation: Real Estate Law, Faculty of Law and Political Science, Mohamed Khider University, Biskra, 2017–18, p. 30.

⁵- Houcem Eddine Barkaïba, ‘Delegation of the Public Service in France and Algeria’, dissertation for the LMD PhD degree in Public Law, Faculty of Law and Political Science, Abi Bakr Belkaïd University, Tlemcen, 2018–19, p. 93.

⁶- Anne-Cécile Naudin, *Concessions of Beach Resorts (Les concessions de plage)*, Master's degree, Centre for Maritime and Transport Law, Faculty of Law and Political Science, Aix-Marseille University, 2007, p. 5.

⁷- Decision No. 11950, issued by the Council of State on 9 March 2004 (file No. 11952), in the Council of State Journal, issue 05, 2004, p. 57.



be: ‘contracts relating to the development and exploitation of beaches, as delegations of the public service that include the occupation of public domain property⁸’. Accordingly, by framing the beach concession contract as a public service delegation contract resulting in the occupation of public domain property, French jurisprudence provides the conceptual basis for how such concessions should be understood.

2. Characteristics of the Tourism Exploitation Concession Contract for Beaches

The tourism exploitation concession contract for beaches is characterised by the following:

- The grantor is a public law entity.

This derives from the constitutional principle established in all Algerian constitutions that ‘public ownership belongs to the national group⁹’. Accordingly, the Algerian legislator grants the state and territorial collectivities, as public law entities, the right to hold national assets, including all property and rights, whether public or private, within the national domain¹⁰.

Consequently, the state and territorial collectivities are the entities vested with the authority to grant the right to occupy a portion of public domain assets, including beaches, by way of concession.

Consequently, the tourism exploitation concession contract for beaches is an administrative contract, in which one of the parties acting on behalf of the public authority is the competent wilaya governor (wali), who signs the concession agreement on behalf of the State and for its account¹¹.

The concessionaire of the beach: A private-law person

The person who exploits the beach, i.e. the tourism exploitation concessionaire, is governed by private law. As a general rule, the concession contract for the exploitation of the beach is concluded between the public authority and a private-law person, whether natural or legal. Such a concessionaire may be a certified hotel adjacent to the beach forming the subject of the concession, for instance.

In this context, the concessionaire is entrusted with the use and exploitation of the beach covered by the contract and is also referred to as the ‘beach operator’¹².

Within this framework, under the provisions of Law No. 25-07 of 19 July 2025, amending and supplementing Law No. 03-02 of 17 February 2003 concerning the determination of the general rules governing the tourism use and exploitation of beaches, the Algerian legislator provided

⁸- Anne-Cécile Naudin, *op. cit.*, p. 14.

⁹- Article 20 of Presidential Decree No. 20-442 dated 30 December 2020, relating to the promulgation of the constitutional amendment adopted by the 1 November 2020 referendum, published in the Official Gazette of the People's Democratic Republic of Algeria, issue 82, dated 30 December 2020.

¹⁰- Article 2 of Law No. 08-14 dated 20 July 2008, amending and supplementing Law No. 90-39 dated 1 December 1990 containing the law on national assets, Official Gazette, issue 44, dated 3 August 2008.

¹¹- Article 25 of Law No. 03-02, establishing the general rules for the use and tourist exploitation of beaches.

¹²- Andrée Coudevylle, ... *op. cit.*, pp. 11–12.



that: ‘The concession is granted to any natural or legal person upon whom the bid is adjudicated, provided that they hold qualifications in the field of tourism or related activities.’¹³

This is justified by the objective of granting a tourism exploitation concession for beaches, which is to improve the quality of tourism services by adopting and complying with recognised global market quality and performance standards — an objective that necessarily requires the expertise of private-law persons to be utilised.

Furthermore, the legislator specifies that the subject matter of the tourism exploitation concession contract for beaches consists in occupying a specific portion of a beach for the purposes of use and exploitation, through the establishment of non-permanent and permanent installations on the beach, the acquisition of equipment to provide various services, and the carrying out of tourism activities.

In addition, a tourism exploitation concession for beaches is only granted for beaches open for swimming, provided they comply with the beach development plan (plan d’aménagement des plages).

As beaches are part of the public domain, the objective of the tourism exploitation concession contract is to ensure the provision of a public service. Accordingly, the authority holding the concession must include specific conditions in the agreement and specifications (tender dossier/terms of reference), taking public service requirements into account¹⁴.

Moreover, the tourism exploitation concession contract is a temporary contract for a period of five years only¹⁵. During this period, the concessionaire is granted the right to manage and exploit the beach. This arrangement is referred to as the temporary occupation (changement/occupation temporaire) of annexes to public domain assets.

The Algerian legislator has also reaffirmed the temporary nature of concession contracts relating to public domain assets, defining such contracts as follows: ‘...the contract by which the public entity — called the authority holding the concession right — grants to a natural or legal person, called the concessionaire, the right to exploit the annexes of a natural public domain asset, or to finance, build and/or exploit a public facility for the purpose of a public service for a given period, after which the facility or equipment returns to the authority holding the concession right’¹⁶.

The purpose of this arrangement is to ensure legal protection for public domain assets.

The beach tourism exploitation concession contract is a formal contract. It is concluded subject to specific legal requirements and procedures, materialised in the form of a concession agreement, which is accompanied by a set of specifications (terms of reference/cahier des

¹³- Article 2 of Law No. 25-07 dated 19 July 2025, amending and supplementing Article 22 of Law No. 03-02 dated 17 February 2003, establishing the general rules for the use and tourist exploitation of beaches, Official Gazette, issue 47, issued on 22 July 2025.

¹⁴- Point 3/Article 19 of Law No. 08-14, amending and supplementing Law No. 90-39, which contains the law on national assets.

¹⁵- Article 23 of Executive Decree No. 04-274, determining the conditions for the tourist exploitation of beaches open for swimming and the modalities thereof.

¹⁶- Articles 16 and 19 of Law No. 08-14, amending and supplementing Law No. 90-39 containing the law on national assets.



charges). Furthermore, the award of the concession contract for beach tourism exploitation only takes place after the concession agreement has been signed by the relevant wilaya governor (wali) for the territory in question.

Regarding the financial considerations in the beach tourism exploitation concession contract:

For the granting authority, this involves obtaining concession fees (redevances) from the concessionaire who exploits the beach, in return for the concessionaire's occupation of the public domain. These fees are determined by the Directorate of State Property (administration des domaines de l'État) when the concession is granted through open competitive bidding; alternatively, the fees are determined by the Finance Law when the concession is granted to municipal people's councils. The proceeds of exploitation are then allocated to the budget of the public entity owning the asset. This was confirmed by the Finance Law for 2012, in Article 60, which states: 'The proceeds generated from the tourism exploitation concession for beaches during the holiday season shall be allocated to coastal municipalities, each within its territorial jurisdiction.'¹⁷

For the concessionaire, the financial consideration consists of collecting fees/charges from users in exchange for the services provided.

The tourism exploitation concession contract for beaches is a contract of adhesion. Under this contract, the General Assembly, as the owner of public domain property, is granted exceptional powers against the concessionaire. Accordingly, the general assembly may exercise these powers at any time it deems appropriate. Such conditions are unusual in private law; rather, public administrations resort to them in concession contracts to safeguard public interest and general utility. One example is the authority to withdraw or annul the concession.

The tourism exploitation concession contract for beaches is one of the contracts capable of producing effects for both parties to the concession. The parties to this contract assume a set of obligations, such as the concessionaire's obligation to operate and manage the beach as set out in the concession agreement and schedule of conditions ('conditions book'), and the granting authority's obligation to enable the concessionaire to exploit the beach without obstacles. In return, the concession contract establishes a set of rights for the parties involved, including the concessionaire's right to charge users for the services provided by the concession, and the granting administrative authority's right to supervise and provide guidance.

The tourism exploitation concession contract for beaches grants the beneficiary a real property right (in rem), consisting of the right of usufruct over the beach, i.e. the right to use and exploit it. However, it does not grant the right to dispose of it, given that it is part of the national public property. Therefore, the granting authority retains ownership rights.

Based on the foregoing, we can propose the following definition of a tourism exploitation concession contract for beaches, which captures its most important elements — those that determine its legal nature and distinguish it from other concession contracts — thereby eliminating ambiguity:

¹⁷- Article 60 of Law No. 11-16 dated 28 December 2011, containing the Finance Law for 2012 (Official Gazette, issue 72, dated 29 December 2011).



‘The tourism exploitation concession contract for beaches is an administrative contract whereby a public authority entrusts a natural or legal person governed by private law with the use and exploitation of a natural beach or part thereof for a relatively short period, under specific conditions and procedures determined by the granting authority in the conditions book. This is in exchange for an annual fee for the use of a beach open to swimming that complies with the development scheme, for the provision of tourism services to beachgoers, for which the concessionaire collects fees from users.’

Secondly, the legal basis for enshrining the concession method for the tourist exploitation of beaches is set out.

Law No. 90-30, dated 1 December 1990 and containing the Law on National Property, which has been amended and supplemented, set out the components of national property, as well as the special rules governing their formation, management and supervision. In particular, it classifies sea beaches as part of public national property¹⁸.

Pursuant to Article 3, paragraph 1, of Law No. 03-02, previously cited above, it defines the beach as: ‘a coastal strip of natural coast comprising the area covered by sea waves at their highest level during the year under normal weather conditions, together with the adjacent areas, whose boundaries are determined by their location and tourism potential for certain developments for the purpose of exploitation for tourism’.

Executive Decree No. 12-427 also defines the beach as: ‘that part of the coastline that is alternately covered by the highest sea waters and revealed by the lowest sea waters’. The boundaries of public property on the land side are those specified in Article 8 of the same decree.¹⁹

Accordingly, the Algerian legislator entrenched the concession method as a means of exploiting public national property under the provisions of Law No. 90-30, dated 1 December 1990 and subsequently amended, making it the sole pattern for exploiting the state’s public property, particularly its natural resources. This approach was later reaffirmed by the enactment of Law No. 03-02, dated 17 February and relating to the determination of the general rules for the use and exploitation of beaches for tourism purposes, which considers the concession contract to be the sole method for the tourism use and exploitation of beaches.

The legal basis for enshrining the concession method for the tourist exploitation of beaches is set out in Article 4 of Law No. 03-02, which states that: ‘Beaches open to swimming constitute spaces for recreation and leisure, and their exploitation shall be subject to the concession right, in accordance with the conditions set out in the relevant documentation, pursuant to the provisions of this Law.’

Given that beaches are part of the national public domain, the legal basis for enshrining the concession method for their exploitation is also reflected in the national property law provisions

¹⁸- Article 15 of Law No. 90-30 dated 1 December 1990 containing the Law on National Assets, Official Gazette, issue 52, dated 2 December 1990.

¹⁹- Article 11 of Executive Decree No. 12-427, dated 16 December 2012, determining the conditions and modalities for the management and administration of public and private assets belonging to the state. Official Gazette, issue 69, dated 19 December 2012.



and implementing regulatory texts. Accordingly, under national property law and the applicable legislative provisions, the Algerian legislator considers granting a concession for the use of public national property to constitute ‘the contract under which the general assembly, the owner of the property and referred to as the authority holding the concession right, grants to a natural or legal person, called the concessionaire, the right to exploit a component of natural public property, or to finance, build and/or exploit a public facility for the purpose of a public service, for a specified period. At the end of this period, the facility or equipment — being the subject of the concession grant — reverts to the authority holding the concession right’. The conditions book relating to the granting of the concession shall define the special conditions that must be met in order to take into account the requirements of the public service.²⁰

Second Axis: Provisions Governing the Granting of Tourism Exploitation Concessions for Beaches

To understand the legal framework of the tourism exploitation concession contract for beaches, it is essential to consider the provisions that govern the granting of such concessions. This can be achieved by first examining the conditions and procedures for granting the concession, and then the methods for granting it.

First: Conditions for granting the tourism exploitation concession for beaches

The granting of a tourism exploitation concession for beaches is subject to specific conditions. In particular, the concession may only be granted for beaches open to swimming, and beaches open to swimming must be subject to a beach development plan.

1) Limitation of granting tourism exploitation concessions for beaches to beaches open for swimming only

Beaches open to swimming are public spaces intended for recreation, relaxation and entertainment²¹. Accordingly, a set of conditions must be met by the beach to be opened for swimming²².

Executive Decree No. 04-111, dated 13 April 2004 and concerning the determination of conditions for opening and prohibiting swimming beaches²³, sets out the specific conditions for opening beaches for swimming.²⁴

A) The physical usability of the beach must not endanger bathers.

Swimming beaches must be safe and easily accessible for bathers, both in their natural state and after development²⁵. Accordingly, beaches designated for swimming may not be located in areas

²⁰- Article 19 of Law No. 08-14 amending and supplementing Law No. 90-39 containing the law on national assets.

²¹- Article 2 of Law No. 25-07 dated 19 July 2025 amending and supplementing Article 4 of Law No. 03-02 dated 17 February 2003 relating to the determination of the general rules for the use and tourist exploitation of beaches.

²²- Point 1/Article 17 of Law No. 03-02, establishing the general rules for the use and tourist exploitation of beaches.

²³- Executive Decree No. 04-111, dated 13 April 2004, determines the conditions for opening and closing beaches to swimmers. This decree is published in the Official Gazette, issue 24, dated 28 Safar 1425 (corresponding to 18 April 2004).

²⁴- Point 1/Article 17 of Law No. 03-02, establishing the general rules for the use and tourist exploitation of beaches.

²⁵- ‘A “vacationgoer” is any person who visits the beach and uses the facilities and tourist equipment for the purposes of rest, relaxation and entertainment during the holiday season.’ This definition is in accordance with



that are classified as threatened or within protected areas²⁶. Nor may they be situated within the fragile parts of the beach. The soil and seashore in such areas are fragile and liable to erosion. Access to these threatened areas is prohibited, as is construction of facilities, roads, car parks and leisure areas in these zones, except where the necessary development has been carried out²⁷. This development must include works such as installing barriers, stabilising the ground or substrate (by scaling or hardening it), and backfilling the beach, in order to preserve its ecological balance. These measures must be justified by the construction of facilities that are necessary to protect the protected area or to locate the facility on the seashore²⁸.

Accordingly, specific procedures must be followed for a beach to be opened for swimming. The first of these is for the wilaya (provincial) commission to submit a proposal to open the beach for swimming. A wilaya commission is therefore established to be responsible for proposing the opening and banning of swimming beaches. The Secretary-General of the wilaya chairs the commission, which is also composed of wilaya directors responsible for tourism, the environment, urban planning, health, public works, youth and sports, civil protection, the commander of the National Gendarmerie Group and the head of wilaya security²⁹.

The commission may also seek the assistance of any other wilaya director it deems appropriate, or any other competent person who can inform its deliberations. Within this framework, the commission is tasked with identifying beaches that can be opened for swimming, in accordance with the conditions specified in Article 17 of Law No. 03-02, as well as beaches where swimming must be prohibited due to the absence of the conditions set out in Articles 9 and 17 of the same law. The commission then proposes its findings to the governor (wali) with territorial jurisdiction.

In addition to the legal proposal process, formal authorisation is also required. Indeed, 'only beaches that have been authorised for that purpose may be opened for swimming'³⁰. Based on the wilaya commission's proposal to open or ban swimming beaches, the relevant governor issues an order authorising the opening of the beach for swimming. This order is served on the municipal people's councils and the relevant authorities, and beachgoers must be informed of the decision to open the beach through various media³¹.

Article 2 of Law No. 25-07, dated 19 July 2025, which amends and supplements Article 23 of Law No. 03-02, dated 17 February 2003. This law relates to the determination of the general rules for the use of beaches for tourism purposes.

²⁶- Article 3 of Executive Decree No. 04-111 determines the conditions for opening and closing beaches to swimmers.

²⁷- Articles 29–30 of Law No. 02-02 dated 5 February 2002 relating to the protection and enhancement of the coast, Official Gazette, issue 10, dated 12 February 2002. 'The administrative authorisation to carry out such works may not be granted because they would affect the natural state of the beach and cause damage to it.'

²⁸- Article 19 of Law No. 02-02, relating to the protection of the coast and its enhancement.

²⁹- Article 3 of Executive Decree No. 04-112, dated 13 April 2000, determines the duties of the wilaya committee responsible for proposing the opening and closing of beaches for swimming, organising them and establishing the procedures for their operation. (Official Gazette, issue 24, dated 18 April 2004).

³⁰- Article 16 of Law No. 03-02, establishing the general rules for the use and tourist exploitation of beaches.

³¹- Articles 19–20 of Law No. 03-02, establishing the general rules for the use and tourist exploitation of beaches.



In all cases, a swimming beach must remain closed until corrective development has been carried out where the beach poses an imminent and certain danger owing to its natural features³².

b. The shore shall not be situated within the properties immediately adjacent to military properties, or to public properties allocated for national defense purposes:

Beaches shall not be open for swimming if they form part of neighbouring properties assigned to the needs of national defence³³. Accordingly, military properties are considered national properties pursuant to the provisions of Law No. 90-30 concerning the National Property Law. These properties are divided into artificial public national property³⁴ and private national property³⁵, as set out in Executive Decree No. 92-371 of 10 October 1992, which establishes the rules for managing real estate properties allocated to the Ministry of National Defence. When classifying military properties, the Algerian legislator distinguished between military public properties as part of the state's public domain, and military private properties as part of the state's private domain.

Furthermore, military public properties are an integral part of the state's public domain. These properties include a set of installations and structures that are subject to special security and protection rules and contribute to the fulfilment of the Ministry of National Defence's missions, namely:³⁶

- Shelter installations for combat units.
- Military naval, land and air bases, and their associated facilities, whether built or unbuilt.
- Naval headquarters and built and unbuilt military port facilities/structures.
- Surface or underground command headquarters and their facilities, including access points.
- Protective installations for National Gendarmerie units and their services.
- Defence facilities and the means directed towards, or intended to contribute to, the protection of the national territory, both land and maritime, in particular:
 - Wired and wireless communication facilities.
 - Manoeuvring, firing and testing ranges.
 - Warehouses of various kinds.
 - Fortifications and castles/fortresses.
- Military industry institutions and their associated facilities.
- Medical and health facilities.

³²- Article 4 of Executive Decree No. 04-111, determining the conditions for opening and prohibiting beaches for swimming.

³³- 'The modalities for applying this article shall be determined by a joint order between the Minister of National Defence and the Minister of Tourism', in accordance with Article 6 of Executive Decree No. 04-111, which determines the conditions for opening and prohibiting beaches for swimming.

³⁴- Article 7(16) of Law No. 08-14 amends and supplements Law No. 90-39, which contains the law on national assets.

³⁵- Article 17 of Law No. 90-39, containing the law on national assets.

³⁶- Executive Decree No. 92-371 of 10 October 1992, published in the Official Gazette, Issue 74 of 14 October 1992, determines the rules applicable to the management of real estate assets allocated to the Ministry of National Defence.



- Training institutions and those providing technical and administrative support.

Military private properties are also an integral part of the state's private domain. These represent real estate properties that are not classified as military public property. They constitute support means, namely:³⁷

- Real estate used for residential purposes.
- Hotels and local clubs.
- Social establishments.

Therefore, swimming on beaches is prohibited if they are adjacent to military or public properties allocated for national defence purposes³⁸.

2. Compliance of beaches open for swimming with the Beach Development Plan and the Beach Tourism Development Plan:

Beaches open for swimming must comply with the beach development plan. In addition, they must be arranged for tourism, with the various facilities and arrangements required under the Beach Tourism Development Plan (2).

A. Mandatory compliance of beaches open for swimming with the beach development plan:

Beaches open for swimming must comply with the Beach Development Plan to ensure they are easily accessible to bathers. This is because the tourism exploitation concession for the beach is subject to the legal requirements included in the Beach Development Plan, which is one of the instruments used to manage the coast.

The plan is drawn up to help municipalities located adjacent to the sea to plan and manage the coastal area, with the aim of protecting sensitive beach spaces³⁹.

The beach development plan includes a technical report and a system for planning and managing the coast. The technical report highlights the following:

- The delineation of the area covered by the beach development plan
- Environmental and geographical characteristics
- Occupancy patterns of residents and economic and industrial activities
- The built environment
- Access routes
- Water supply and sewage networks
- Basic infrastructure facilities
- Development stakes and scenarios
- Proposed works/actions
- A set of cartographic documents revealing the ecological status, sources of pollution and other relevant elements

³⁷- Article 5 of Executive Decree No. 92-371, determining the rules applicable to the management of real estate assets allocated to the Ministry of National Defence.

³⁸- Point 2 of Article 17 of Law No. 03-02, establishing the general rules for the use and tourist exploitation of beaches.

³⁹- Article 26 of Law No. 02-02, relating to the protection and enhancement of the coast.



The planning and coastal management system comprises all measures specified under current laws and regulations, as well as those proposed under Law No. 02-02, dated 5 February 2002, on the protection and enhancement of the coast. These measures relate to all coastal components, including land use and road location; residential complex and building expansion; economic and industrial activity expansion; wastewater and waste treatment; activity zone or anchorage/jetty area creation; tourism area expansion; port facility construction; and natural space, sensitive coastal environment, protected area and threatened zone protection⁴⁰.

The planning system also includes a cartographic plan.

B. Mandatory tourism arrangements for beaches open for swimming:

Beaches open for swimming must be organised for tourism purposes through a set of facilities and works carried out to enable their exploitation for tourism, in accordance with the beach tourism development plan. The plan is intended as a tool for organising and enhancing the beach in order to improve the quality of services provided and ensure optimal use of facilities⁴¹.

The most important facilities include the following:

- Construction and arrangement works:

In order to comply with the advance beach development plan and enable tourists to access their destination beach, a set of essential works must be carried out, the most important of which are:

- Opening up and arranging the roads and paths leading to the beach through various works and operations, including:⁴²

- Removing obstacles that hinder access to the beach and pose a danger to bathers, especially natural obstacles such as rocks and bushes.

- The obligation to place signs and directional indicators showing the route to the beach.

- Providing public lighting.

- equipping the beach with National Gendarmerie (DGR) posts.

- Equipping the beach with a parking area, which must be arranged away from areas intended for leisure and swimming. This car park must be provided with the legally required signs and be maintained. Where necessary, security/guarding should be provided.

- Providing appropriate health facilities by establishing premises responsible for first aid and urgent treatment carried out by rescue teams and Civil Protection members.

- Providing all necessary and suitable facilities for use of the beach.

- Equipping the beach with showers and toilets, ensuring that public health and safety rules are taken into account.

- Equipping the beach with a sufficient number of dressing rooms.

⁴⁰- Article 2 of Executive Decree No. 09-114, dated 11 Rabi' al-Thani 1430 (corresponding to 7 April 2009) determines the conditions for preparing a beach development plan (Plan d'Aménagement de la Plage), its content and the modalities for its implementation (Official Gazette, Issue 21, dated 12 Rabi' al-Thani 1430, corresponding to 8 April 2009).

⁴¹- Article 2 of Law No. 25-07 dated 19 July 2025 amending and supplementing Article 3 of Law No. 03-02 dated 17 February 2003 relating to the determination of the general rules for the use and tourist exploitation of beaches.

⁴²- Articles 7, 8 and 10 of Executive Decree No. 04-111 determine the conditions for opening and closing beaches to swimmers.



- Cleaning and sterilising the beach by removing waste and allocating suitable locations for collecting it in adequate numbers, as well as combating insects.

Our attention has been drawn to the beach development works carried out in some coastal municipalities, where certain municipalities require their residents — especially owners of dwellings located along the waterfront — to standardise the colour of their house paint in order to enhance the aesthetic appeal of the waterfront. They also halt construction and demolition work beginning with the announcement of the summer season to ensure the safety of bathers.

Furthermore, to properly organise and control seasonal commercial activities, coastal municipalities prohibit any commercial activity, regardless of its type, on the pavements of the main street facing the sea during the summer season. This is because such activities affect the flow of movement and traffic, as well as bathers' access to the sea.

To ensure that bathers can access the beach safely and easily, heavy trucks are prohibited from entering the urban area facing the sea.

Furthermore, designated areas for children's summer camps and for bathers must be respected. In the event of a breach of this legal obligation, the public authority, together with municipal workers, is mobilised to prevent any conduct that would hinder the comfort of bathers. This includes prohibiting the entry of animals (such as dogs and horses) onto beaches open for swimming and prohibiting the use or entry of motorbikes onto the beach.

In addition, and in response to the beach tourism development plan, the presence or leaving of leisure/outing boats and floating vehicles outside the designated area is prohibited, in order to ensure the safety of bathers⁴³.

It is also worth noting that the Algerian legislator did not provide for the requirement to allocate sufficient spaces for the passage of vehicles for persons with disabilities to enable them to reach the sea as part of the necessary works for beach development, under Law No. 03-02 on the determination of general rules governing the use and tourism exploitation of beaches. However, some coastal beaches have allocated spaces for vehicles carrying disabled people, which we consider a commendable step that should be addressed explicitly in the law's provisions on the general rules for the use and tourism exploitation of beaches.

The Algerian legislator has addressed this oversight in Article 2 of Law No. 25-07, dated 19 July 2025, which amends and supplements Law No. 03-02, dated 17 February 2003.

'The beach tourism development plan, prepared according to the general layout of the beach, includes the following specifications and elements: ... an access route to the beach that is arranged and marked, taking into account the ease of access for persons with disabilities...'⁴⁴

We find that the French legislator has been keen to ensure that all necessary work is carried out to develop and arrange roads and areas so that persons with reduced mobility can access the designated beach without encountering any obstacles or impediments from the public roadway

⁴³- Article 3 of Law No. 25-07, dated 19 July 2025, supplements the provisions of Law No. 03-02, dated 17 February 2003, relating to the determination of the general rules for the use and tourist exploitation of beaches, as set out in Article 36 bis contained therein.

⁴⁴- Law No. 25-07, dated 19 July 2025, amends and supplements Law No. 03-02, dated 17 February 2003, relating to the determination of the general rules for the use and tourist exploitation of beaches.



to the facilities and on to the sea. This is reflected in Article 5 of Ordinance No. 2006-608 of 26 May 2006 on the granting of beach concessions, which requires the submission of a memorandum detailing the planned arrangements to enable disabled people to access the beach. If the municipality—or a group of municipalities—claims that it is impossible to satisfy this requirement, it must state the reasons why⁴⁵.

This confirms that this obligation is one of the regulatory conditions that must be included in the tender/concession specifications (the ‘concession contract terms’), under the heading ‘Beach development — Public access to the sea’

Swimming area markers:

Beaches that are open for swimming must have several markers to define the boundaries of the swimming zones. They must also be equipped with signal poles displaying the colours green, orange and red in sufficient numbers.

Under the provisions of Law No. 25-07 dated 19 July 2025, which amends and supplements Law No. 03-02 dated 17 February 2003 concerning the determination of the general rules for the use and tourist exploitation of beaches, the Algerian legislator set out the specifications and elements of the beach tourism development plan. This plan is prepared according to the general layout of the beach and includes the following, in particular:

- the type of beach and its boundaries;
- the areas subject to concession and the free areas;
- a strip reserved to ensure the free movement of bathers along the beach in each concession area;
- an access route to the beach that is organised and signposted, taking into account the ease of access for all, especially persons with disabilities;
- an area dedicated to sports and recreational activities and a rest area;
- a space dedicated to parking floating vehicles and leisure boats used for outings.

The wilaya (province) tourism authority is responsible for preparing the beach tourism development plan, which is approved by the wilaya governor with territorial competence, after obtaining the wilaya committee’s approval referred to in Article 19 of the same law.

Furthermore, the beach tourism development plan must be made public by displaying it on a guidance board at the entrance to each beach that highlights the above elements⁴⁶.

Performance of analyses of beach waters:

Beach waters planned for swimming must undergo regular and periodic analysis to determine their quality and suitability for swimming⁴⁷. The required quality standards for bathing water

⁴⁵- Article 5 of Decree No. 2006-608 dated 26 May 2006 relating to beach concessions states that a note must be provided explaining the planned arrangements to allow access to the beach for persons with disabilities. If the municipality or group of municipalities invokes proven material impossibility to satisfy this requirement, they must explain the reasons.

⁴⁶- Article 2 of Law No. 25-07, dated 19 July 2025, amends and supplements Articles 5 and 14 of Law No. 03-02, dated 17 February 2003, relating to the determination of the general rules for the use and tourist exploitation of beaches.

⁴⁷- Article 11 of Law No. 03-02 determines the general rules for the use and tourist exploitation of beaches.



are governed by Executive Decree No. 93-164 dated 10 July 1993, and these criteria must be taken into account⁴⁸.

Within this framework, and with the aim of safeguarding public health and safety, the concession holder must refrain from carrying out any works or practices that could deteriorate the quality of the seawater or reduce its beneficial properties, and must protect the natural state of the beach⁴⁹.

Secondly, the methods for granting the tourism exploitation concession for beaches are outlined.

The tourism exploitation concession contract for beaches is based on the criterion of public utility. As a general rule, the concession is granted through open competitive bidding (1), and exceptionally through negotiation (2). This will be addressed in detail below.

1) Granting the tourism exploitation concession for beaches through open bidding as a general rule

The concession is granted by way of open competitive bidding, following specific stages and procedures which will be explained below.

A) Preparation of the tender/concession contract documents (the ‘terms and conditions’)

Adopting the concession scheme as a mechanism for the tourism exploitation of beaches, which are part of public national property, requires the granting authority to comply with a series of procedures. The framework for granting the concession is defined in two fundamental documents: the tender/terms and conditions document and the concession agreement.

The terms and conditions document for granting the tourism exploitation concession for the beach is the main document setting out all the contractual and regulatory conditions related to the concession⁵⁰. It specifies the technical, administrative and financial requirements of the concession. In standard form, it is intended to reflect what the National Property Law provides, in order to guarantee the public who will benefit from the concession⁵¹.

‘The terms and conditions document relating to the granting of a concession defines the special conditions that must be met, taking into account the requirements of the public service.’⁵²

The document is also consistent with Executive Decree No. 12-427, dated 16 December 2012, which sets out the conditions and procedures for managing and administering state-owned public and private properties. It provides that:

⁴⁸- Executive Decree No. 93-164, dated 10 July 1993, determines the required quality standards for bathing water (Official Gazette, issue 46, dated 14 July 1993).

⁴⁹- Articles 7 and 10 of Law No. 03-02 determining the general rules for the use and tourist exploitation of beaches.

⁵⁰- Point 3/Article 4 of Law No. 03-02 determining the general rules for the use and tourist exploitation of beaches.

⁵¹- Appendix II, containing the model terms and conditions for the concession of tourist exploitation of beaches open for swimming, as set out in the joint ministerial order dated 18 May 2006 and published in the Official Gazette, issue 70, on 5 November 2006.

⁵²- Point 3/Article 64 bis included in Article 19 of Law No. 08-14 amending and supplementing Law No. 90-39 containing the law on national assets.



‘These contracts are carried out for a public utility purpose entrusted by the State to legal persons governed by public or private law, and they create real rights under the conditions provided for in the terms and conditions documents.’⁵³

B) Invitation to Tender (Open Auction)

The administrative authority that owns the property, whose area of jurisdiction includes the beach, must announce the granting of a concession/permit to exploit the beach, and inform all interested parties. They must be informed of how to obtain the tender contract conditions and specifications, and of the time and place for holding the open tender⁵⁴. This announcement will be published in the press and notices will be posted at the headquarters of the relevant Municipal People’s Council and on the beach itself. Therefore, the use of public property must be subject to public announcement and competition⁵⁵.

C) Submission of bids

After the administrative authority that owns the property has announced the open tender in accordance with the conditions and necessary formal procedures, individuals who wish to enter into a contract — provided they meet the necessary requirements — shall begin the process by collecting the open tender file from the relevant tourism department, having paid the administrative fees⁵⁶. The amount of these fees shall be set by a decision of the territorially competent Governor.

The tender file shall include the following:

- a letter inviting participation in the tender, including project references;
- The terms booklet (conditions);
- A detailed tender document explaining how bids are opened and evaluated, and the price fixed by the relevant national property authority.

The open tender file shall be accompanied by the following documents:⁵⁷

- Identification of the applicant: for a natural person, or the company’s articles of association for legal entities;
- Documents proving the establishment of the banking guarantee;
- A copy of the entry in the Commercial Register.
- Evidence of available capital.

Information related to the organisation of the exploitation, as required.

In order to participate in the open tender, the following conditions must be met:

⁵³- Point 5/Article 75 of Executive Decree No. 12-427, determining the conditions and modalities for the management and administration of public and private assets belonging to the State.

⁵⁴- Article 13 of Executive Decree No. 04-274, determining the conditions for the tourist exploitation of beaches open to the public and the modalities thereof.

⁵⁵- Marie-Charlotte Bontron, 'The Functions of the Fundamental Principles of Public Procurement', thesis submitted to obtain the Doctoral degree, specialisation: Public Law, Doctoral School: Law and Political Science, University of Montpellier, submitted on 07/11/2015, p. 465.

⁵⁶- Article 14 of Executive Decree No. 04-274, determining the conditions for tourist exploitation of beaches open for swimming and the modalities thereof.

⁵⁷- Articles 8 and 12 of Executive Decree No. 04-274 determining the conditions for tourist exploitation of beaches open for swimming and the modalities thereof.



- They must possess the necessary human and material resources for the activity.
- Hold a banking guarantee dedicated to covering their commitments, the amount of which is determined by the territorially competent Governor.
- Registration in the Commercial Register⁵⁸.

Bidders must submit their bids within the specified time limits. Each competing bidder's file must contain two offers: a financial offer and a technical offer.

D) Examination of bids

An 'Open Tender Committee' is established within the tourism-responsible Wilayah Directorate by a decision of the Governor. The committee is assigned a set of tasks to be completed in two stages.

First stage: Opening of envelopes

During this stage, the Open Tender Committee publicly opens the envelopes on the specified date and at the specified time and place. During this session, the committee performs the following tasks:

- prepares a detailed description of each bid by inventorying the contents of each bid and verifying their conformity with the list of required documents in the open tender file.
- Drafts the meeting minutes, which are signed by all committee members present at the session. These minutes must detail the procedure followed, the number of bids opened and the contents of each bid.

Second stage: Evaluation of bids

Unlike the envelope-opening process, the evaluation stage is conducted in a non-public session. Committee members are required to keep their deliberations confidential. Their tasks during this stage include:

- evaluating bids according to the criteria set out in the open tender regulations;
- scoring and ranking bids in accordance with the provided criteria and tables;
- ranking bids in descending order, taking into account the points obtained for each bid.

Selecting the best bids, i.e. those with the highest scores⁵⁹.

E) Award of the Open Tender (Contract Award)

In a public session, the chairperson of the Open Tender Committee announces the successful bidder(s) as the party or parties who submitted the best offers in accordance with the open tender regulations. However, the selection of the best offers under the open tender regulations—and its announcement by the chairperson in a public session—may constitute only a provisional award and not a final one. This may occur within one of the following frameworks:

⁵⁸- Point 1/Article 8 of Executive Decree No. 04-274 determining the conditions for tourist exploitation of beaches open for swimming and the modalities thereof.

⁵⁹- Articles 16 and 17 of Executive Decree No. 04-274 determine the conditions for the tourist exploitation of beaches open for swimming and the modalities thereof.



Provisional granting of the concession to classified hotel establishments located adjacent to the beach that is the subject of the concession⁶⁰.

2) The territorially competent Governor has the power to suspend the concession-awarding process at any time and immediately conduct a new open tender. This is explained further below:

(c-1) Provisional granting of the concession to classified hotel establishments adjacent to the relevant beach.

A “hotel establishment” is defined as follows: Any establishment that accommodates customers, with or without providing additional services. This includes hotels, tourist resorts and holiday villages, hotel apartments or serviced residences, motels or roadside inns, and tourist camps⁶¹.

Therefore, the concession to exploit beaches is not limited to hotels only. It may also be granted to other types of hotel establishment, depending on the nature of their facilities and arrangements⁶².

To ensure the manager of a classified hotel adjacent to a beach is entitled to priority in being granted the concession, Algerian legislation gives the chairperson of the Open Tender Committee the authority to notify the manager of the best offer price, enabling them to exercise the priority right⁶³.

This priority right is subject to two conditions:

First, the hotel establishment must be classified according to the criteria specified in the annex to Executive Decree No. 19-158 mentioned above⁶⁴.

The second condition is that the classified hotel establishment must be adjacent to the beach and granted a concession.

In order to enjoy the priority right to be granted the concession, the classified hotel establishment adjacent to the beach must have facilities that extend to, or are directly connected with, the beach in question⁶⁵.

The Algerian legislator provides that a hotel establishment may be equipped with facilities providing various services, such as catering, entertainment, leisure and outdoor activities, animation and entertainment programmes, care and treatment, wellness and comfort, sports,

⁶⁰- Point 1, Articles 19 and 3, and Article 22 of Law No. 03-02 determining the general rules for the use and tourist exploitation of beaches; and Article 4 of Executive Decree No. 04-274 determining the conditions for tourist exploitation of beaches open for swimming and the modalities thereof.

⁶¹- Article 4 of Law No. 99-01 dated 6 January 1999, determining the rules related to hotel/inn (hospitality) activity (Official Gazette, issue 2, issued on 10 January 1999).

⁶²- Article 3 of Executive Decree No. 19-158 dated 30 April 2019, defining hotel establishments and determining the conditions and modalities for their operation, classification and manager approval, Official Gazette, issue 33, issued on 19 May 2019.

⁶³- Point 2/Article 19 of Executive Decree No. 04-274, determining the conditions for the tourist exploitation of beaches open for swimming and the modalities thereof.

⁶⁴- Article 18 of Executive Decree No. 19-158, defining hotel institutions and determining the conditions and modalities for their operation, classification and manager approval.

⁶⁵- Point 2/Article 2 of Executive Decree No. 19-158, defining hotel institutions and determining the conditions and modalities for their operation, classification and manager approval.



conferences and marinas, as well as other seaside tourism facilities, such as leisure ports. These facilities may be located on the beach that is the subject of the concession⁶⁶.

Consequence of meeting both conditions

Once the two aforementioned conditions are met, the concession to exploit the beach is granted to the classified hotel establishment adjacent to the beach in question, even if the tender is awarded to one or more other bidders on the basis that they submitted the best offers.

This does not mean that those bidders are excluded from the process. Rather, the concession to exploit the beach may be granted in addition to the adjacent classified hotel establishment that has established its priority right. It may therefore be granted to:

- the person or persons on whom the tender is adjudicated; and
- the adjacent classified hotel establishment that has proven its priority right.

Taking into account the size and nature of the concessioned beach and in accordance with the beach development plan⁶⁷.

F) Deadline for the priority right

The manager of the classified hotel establishment adjacent to the beach must express their desire to exercise the priority right within one month of being notified by the chairperson of the tender committee of the best offer price⁶⁸.

Failure to respond after the specified period has expired is deemed to constitute a waiver of the priority right by them. This means that the concession to exploit the beach will be granted to the person(s) to whom the tender was awarded⁶⁹.

(c-2) Competence of the territorially competent Governor to stop the concession-granting process at any time and to immediately launch a new open tender

Even if the open tender is adjudicated to one or more persons on the basis of their having submitted the best offers, this adjudication remains only provisional and not final. Under Algerian law, the territorially competent Governor—before approving and publishing the minutes of the Open Tender Committee—may at any time decide to stop the concession-granting process and to initiate a new open tender. In such a case, the Directorate responsible for tourism shall notify all participants in the previous open tender of the Governor's decision.

Approval of the open tender

Once the territorially competent Governor has approved and published the minutes of the open tender committee (submitted by the committee chairperson), the concession to exploit the beach will be granted by means of an agreement. This agreement is signed by:

- the territorially competent Governor on behalf of the State and for its account; and
- the person(s) to whom the tender was awarded.

⁶⁶- Article 26 of Law No. 03-02, determining the general rules for the use and tourist exploitation of beaches.

⁶⁷- Article 21 of Executive Decree No. 04-274, determining the conditions for the tourist exploitation of beaches open for swimming and the modalities thereof.

⁶⁸- Article 25 of Law No. 03-02 determines the general rules for the use and tourist exploitation of beaches.

⁶⁹- Article 22 of Executive Decree No. 04-274 determines the conditions for the tourist exploitation of beaches open for swimming and the modalities thereof.



The agreement will be sent to the concessionaire within fifteen (15) days of the decree approving the agreement being published in the Official Gazette⁷⁰.

Granting a tourism exploitation concession for beaches by exception through negotiation⁷¹.

A tourism exploitation concession for beaches may be granted by negotiation in exceptional circumstances. This section addresses the definition of the negotiation method and the procedures for granting a tourism exploitation concession for beaches through negotiation.

(a) Definition of the negotiation method

A tourism exploitation concession for beaches may be granted by negotiation as an exceptional method, without being subject to formal competitive bidding procedures. In the context of delegations of public services, negotiation falls under what is referred to as ‘direct agreement’, which takes the form of either:

- simple direct agreement; or
- direct agreement following consultation⁷².

(b) Procedures for granting a tourism exploitation concession for beaches through negotiation

Under Law No. 03-02 dated 17 February 2003 relating to the definition of the general rules for the use and tourism exploitation of beaches, the Algerian legislator limits the possibility of resorting to direct agreement as an exceptional method for granting a tourism exploitation concession to only one case: When the competition proves unsuccessful⁷³.

The “ineffectiveness” of the competition must be confirmed in a report/minutes drawn up by the chairperson of the Open Tender Committee and sent to the relevant Governor. The report must state that the open tender was not effective or fruitful⁷⁴.

In parallel, the Chairperson of the Municipal People’s Council must also publicly announce the tender’s lack of effectiveness, indicating the reasons for it, in the same manner as an open tender procedure is announced.

Example

The Chairperson of the Municipal People’s Council of Marsa El-Hadjadj (Batia district, Oran Province) declared a tender under No. 1106/2023, dated 8 June 2023, to be ineffective, using the following approach:

‘The Chairperson of the Municipal People’s Council of Marsa El-Hadjadj, affiliated with the Batia district (Oran Province), announces the ineffectiveness of the tender announcement No.

⁷⁰- Article 2 of Law No. 25-07 dated 19 July 2025 amending and supplementing Article 23 of Law No. 03-02 dated 17 February 2003 relating to the determination of the general rules for the use and tourist exploitation of beaches.

⁷¹- Article 16 of Executive Decree No. 18-199 relating to the delegation of the public service.

⁷²- Point 1/Article 40 of Law No. 23-12 dated 5 August 2023, which sets out the general rules relating to public procurement contracts (Official Gazette, issue 51, 6 August 2023). 'The procedure by mutual agreement (gré à gré)' is defined in Point 1/Article 41 of Presidential Decree No. 15-247 dated 16 September 2015, which contains the regulation of public procurement contracts and delegations of the public service, as follows: 'A procedure for awarding a contract to a single contracting party without a formal invitation to tender', Official Gazette, issue 50, 20 September 2015.

⁷³- Article 23 of Law No. 03-02 determines the general rules for the use and tourist exploitation of beaches.

⁷⁴- Point 1 of Article 24 of Executive Decree No. 04-274 determines the conditions for the tourist exploitation of beaches open for swimming and the modalities thereof.



903/2023, published in *Le Quotidien d'Oran* and *El-Moujtama'* on 29 May 2023, concerning the exploitation of the municipal beach enclosures for the 2023 tourism season, due to the fact that no bids were received.'

Granting the concession by consent

Based on this, the beach exploitation concession is granted by direct agreement (consent) to the relevant Municipal People's Council through a concession agreement. This agreement is prepared and signed by the territorially competent governor. The signed agreement must be sent to the beneficiary within fifteen (15) days from the date of publication of the decree approving the agreement in the *Official Gazette*⁷⁵.

Finally, granting the concession to the Municipal People's Council obliges that council to pay a fee ('royalty/canons'), the amount of which is determined by the Finance Law⁷⁶.

It should be noted that Law No. 03-02, which sets out the general rules governing the use and tourist exploitation of beaches, did not specify cases of non-effectiveness of the competition procedure or the number of times such 'non-effectiveness' must be announced before resorting to direct dealing (private negotiation/dispensation) as an exceptional method for granting the concession. It merely states that: 'The concession may be granted by way of direct dealing to the relevant municipal people's councils when the tender is ineffective.'⁷⁷ This is also confirmed by the provisions of Executive Decree No. 04-274, which sets out the conditions for the tourist exploitation of beaches open for swimming and the methods for doing so⁷⁸. In cases where coastal municipalities resort to the second and third notices/tenders for an open tender, this decree also applies.

Meanwhile, Executive Decree No. 18-199, concerning the delegation of a public service, provides that the delegated authority's recourse to direct dealing as an exceptional means for concluding a delegation agreement may only occur after the second announcement of the ineffectiveness of the submitted competition request⁷⁹. The delegatee is then selected from among the qualified candidates who participated in the request for competition⁸⁰ in the following cases:

After the first competition request, if it is established that:

- no bids are received;
- one bid is received;
- no bids comply with the specifications/'tender documents' (the bidding book of requirements).

- after the second competition request, if it is established that:

⁷⁵- Points 2–3 of Article 24 of Executive Decree No. 04-274 determine the conditions for the tourist exploitation of beaches open for swimming and the modalities thereof.

⁷⁶- Article 25 of Executive Decree No. 04-274, determining the conditions for the tourist exploitation of beaches open for swimming and the modalities thereof.

⁷⁷- Article 23 of Law No. 03-02 determines the general rules for the use and tourist exploitation of beaches.

⁷⁸- Article 4 of Executive Decree No. 04-274, determining the conditions for tourist exploitation of beaches open for swimming and the modalities thereof.

⁷⁹- Point 2/Article 14 of Executive Decree No. 18-199 relating to the delegation of the public service.

⁸⁰- Point 1/Article 19 of Executive Decree No. 18-199 relating to the delegation of the public service.



- no bids are received;
- no bid complies with the specifications/'bidding book of requirements'.

However, if one bid is received in response to the second request for tenders and it is shown that the bid complies with the specifications, it is accepted in order to continue the procedure. This constitutes a legal exception to the application of the principle of competition due to the absence of other candidates.

Lastly, the Algerian legislature was careful to define the form of direct dealing upon which the concession for the tourist exploitation of the beach is granted to the municipal people's council with territorial jurisdiction⁸¹.

With reference to the provisions of Executive Decree No. 18-199 relating to the delegation of a public utility/service, the direct dealing procedure may take the form of either simple direct dealing or direct dealing after consultation. 'Simple direct dealing' is defined as: 'a procedure through which the delegating authority selects a qualified delegatee to manage a public service, after verifying their financial, professional and technical capacities'. It is used when services can only be delegated to a single bidder with an exclusive/monopoly position, or in emergency cases as defined in Article 21 of the same Decree⁸².

Direct dealing after consultation is defined as: 'a procedure through which the delegating authority selects a delegatee from among at least three qualified candidates'⁸³.

The delegating authority resorts to this form of direct dealing in two situations:⁸⁴

1. When the competition request is found to be ineffective for the second time, in which case the delegatee is selected from among the qualified candidates who participated in the competition.
2. When certain public facilities/services are delegated that do not require a request for competition to be submitted. These public facilities are determined by a joint decision issued by the Minister of Finance and the Minister in charge of local authorities. In this case, the delegatee is selected from a list prepared in advance by the delegating authority after verifying the financial, professional and technical capacities enabling them to manage the relevant public utility or service.

Under Law No. 25-07 of 19 July 2025, which amends and supplements Law No. 03-02 of 17 February 2003 relating to the general rules for the use and tourist exploitation of beaches, the Algerian legislature has set out the rules for recourse to the exceptional method for granting concessions for the tourist exploitation of beaches. It provides that: 'The concession may be granted through direct negotiations to the relevant municipality or public institutions related to leisure, tourism, or related activities, when the second tender is ineffective.'⁸⁵

⁸¹- Article 15 of Executive Decree No. 18-199 relating to the delegation of the public service.

⁸²- Articles 16, 18 and 20 of Executive Decree No. 18-199 relating to the delegation of public services.

⁸³- Article 19 of Executive Decree No. 18-199 relating to the delegation of the public service.

⁸⁴- Article 17 of Executive Decree No. 18-199 relating to the delegation of the public service.

⁸⁵- Article 2 of Law No. 25-07 dated 19 July 2025 amending and supplementing Article 23 of Law No. 03-02 dated 17 February 2003 relating to the determination of the general rules for the use and tourist exploitation of beaches.



Examining the provisions of the above-mentioned article makes it clear that the Algerian legislator has dispensed with the term ‘direct dealing’ and replaced it with ‘negotiation’ as an exceptional method for granting a concession for the tourist exploitation of beaches. The number of cases in which the ‘ineffectiveness of competition’ triggers negotiation has also been limited to two. Furthermore, it specifies that the concession for the tourist exploitation of beaches is granted through direct negotiation.

Conclusion:

The adoption of the administrative concession contract in Algeria has not been limited to managing public facilities. In fact, it has become so important in practice that the State relies on it exclusively for the use and tourist exploitation of beaches, which are considered part of the State’s natural public domain. Indeed, concession contracts for the tourist exploitation of beaches constitute a newly introduced category of administrative contract within Algerian administrative activity. This is because the granting authority is a public law entity and the contract concerns the occupation of a natural public domain asset linked to the administration and management of a public service. This is intended to meet public needs through the concession-holder, while also achieving the goal of public interest.

This clearly reflects Algeria’s economic orientation, which is based on opening the door broadly to the private sector for investment and the development of coastal tourism, thereby strengthening the national economy.

Furthermore, as the concession has been established as a method for the tourist exploitation of beaches, on which the State relies to increase its revenues and invest in the tourism sector, effective legal and regulatory frameworks must be set up. These frameworks must ensure the expected economic returns from concession contracts for the tourist exploitation of beaches are attained, helping to position Algeria among the world’s leading tourist destinations. This is especially important given that this topic is not only tied to legal and technical considerations, but is also closely linked to political, economic, social and environmental factors.

List of sources and references:

First: Arabic

1) Legal texts:

a) Laws

In the absence of a relevant provision in Law No. 03-02, dated 17 February 2003, establishing the aforementioned general rules, a tourist exploitation concession for the beach may be granted through a mutual agreement procedure as an exceptional method, provided that the request for a competitive procedure is declared unsuccessful due to its lack of usefulness. However, the concession holder is not selected from among the qualified candidates who participated in the open bidding procedure. Instead, the tourist exploitation concession for the beach is granted to the competent municipal people’s assembly (the local authority with jurisdiction), pursuant to Article 24, paragraph two of Executive Decree No. 04-274, which determines the conditions for the tourist exploitation of beaches open for swimming and the modalities thereof.

If you wish, I can also:

- standardise the citation format (e.g. 'J.O., issue X, dated ...'), and/or
- correct any numbering inconsistencies (e.g. where article numbers appear duplicated or slightly inconsistent).



- Law No. 90-30, dated 1 December 1990, relating to the National Public Property Law, J.O.R.A., Issue 52, issued on 2 December 1990.
- Law No. 99-01, dated 6 January 1999, setting out the rules relating to hotels and hospitality (fandaqa), J.O.R.A., Issue 02, issued on 10 January 1999.
- Law No. 02-02, dated 05 February 2002, concerning the protection of the coast and its development/enhancement, J.O.R.A., Issue 10, issued on 12 February 2002.
- Law No. 03-02, dated 17 February 2003, laying down the general rules for the use and tourist exploitation of beaches, J.O.R.A., Issue 11, issued on 19 February 2003.
- Law No. 08-14, dated 20 July 2008, amending and supplementing Law No. 90-39, dated 1 December 1990, concerning National Public Property, J.O.R.A., Issue 44, issued on 3 August 2008.
- Law No. 10-02, dated 29 June 2010, concerning the approval of the National Scheme for Land-Use Planning (Schéma Directeur d'Aménagement du Territoire), J.O.R.A., Issue 61, issued on 21 October 2010. Law No. 11-16, dated 28 December 2011, containing the Finance Law for 2012, J.O.R.A., Issue 72, issued on 29 December 2011.
- Law No. 23-12, dated 5 August 2023, establishing the general rules relating to public procurement, J.O.R.A., Issue 51, issued on 6 August 2023.
- Law No. 25-07, dated 19 July 2025, amending and supplementing Law No. 03-02, dated 17 February 2003, concerning the general rules for the use and tourist exploitation of beaches, J.O.R.A., Issue 47, issued on 22 July 2025.

b) Regulatory texts

- Presidential Decree No. 20-442, dated 30 December 2020, relating to the issuance of the constitutional amendment adopted by the referendum held on 1 November 2020, published in the J.O.R.A., Issue 82, dated 30 December 2020.
- Presidential Decree No. 15-247, dated 16 September 2015, concerning the organisation of public procurement and public service delegations, J.O.R.A., Issue 50, dated 20 September 2015.

Second: Arabic

Regulatory texts

Executive Decrees:

- Executive Decree No. 92-371, dated 10 October 1992, defining the rules applicable to the management of real estate property allocated to the Ministry of National Defence, J.O.R.A., Issue 74, issued on 14 October 1992.
- Executive Decree No. 93-164, dated 10 July 1993, defining the required quality standards for bathing waters, J.O.R.A., Issue 46, issued on 14 July 1993.
- Executive Decree No. 04-111, dated 13 April 2004, defines the conditions for opening and banning beaches for swimming. It was published in J.O.R.A., Issue 24, on 18 April 2004.



- Executive Decree No. 04-112, dated 13 April 2000, defines the duties of the provincial committee responsible for proposing the opening and banning of beaches for swimming, organising them, and detailing the modalities for their functioning. It was published in the J.O.R.A., Issue 24, on 18 April 2004.
- Executive Decree No. 04-274, dated 5 September 2004, defines the conditions for the tourist exploitation of beaches open to swimming and the modalities thereof. It was published in the J.O.R.A., Issue 56, on 5 September 2004.
- Executive Decree No. 09-114, dated 07 April 2009, defining the conditions for preparing a beach planning scheme (planification/plan de l'aménagement de la plage), its content, and the modalities for its implementation, J.O.R.A., Issue 21, issued on 08 April 2009.
- Executive Decree No. 12-427, dated 16 December 2012, defining the conditions and modalities for the management and administration of public and private property belonging to the State, J.O.R.A., Issue 69, issued on 19 December 2012.
- Executive Decree No. 18-199, dated 02 August 2018, relating to the delegation of a public utility/service, J.O.R.A., Issue 48, issued on 05 August 2018.
- Executive Decree No. 19-158, dated 30 April 2019, defines hotel institutions and sets out the conditions and modalities for their operation, classification and the approval of their managers. It was published in J.O.R.A., Issue 33, on 19 May 2019.

Joint Ministerial Decisions/Ministerial Orders

- Joint Ministerial Decision, dated 18 May 2006, defining the models of the agreement and the specifications/tender document (cahier des charges) related to the concession (privilege) of the tourist exploitation of beaches open to swimming. Published in J.O.R.A., Issue 70, on 5 November 2006.

Books:

- Amar Boudiaf, 'Explanations on the Organisation of Public Procurement', Joussour Publishing and Distribution, Algeria, 2011.

Theses and dissertations:

- Ahmed El-Nouaai, "The Legal Regime of Public National Property in Algerian Legislation", PhD thesis in Law, specialising in property law, Faculty of Law and Political Science, Mohamed Khider University, Biskra, 2017–2018.
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- Decision No. 11950, issued by the Council of State on 9 March 2004; Catalogue/Reference No. 11952; Magallat/Magazine of the Council of State, Issue 05, 2004.



Secondly, it is in a foreign language.

1. Decrees:

- Decree No. 2006-608 of 26 May 2006 relating to beach concessions (JORF No. 0123 of 28 May 2006).
- Decree No. 2011-1612 of 22 November 2011 relating to the first, second, third and fourth regulatory parts of the General Code of Public Ownership. This decree repeals Decree No. 2006-608 of 26 May 2006. See *JORF* No. 0272 of 24 November 2011 for more information.

2. Theses and dissertations:

- Marie-Charlotte Bontron, ‘The Functions of the Fundamental Principles of Public Procurement’, thesis submitted to obtain the degree of Doctor, specialisation: Public Law, Doctoral School in Law and Political Science, University of Montpellier, defended on 7 November 2015.
- Anne-Cécile Naudin, Beach Concessions, Master’s degree (D.E.S.S.), Centre for Maritime Law and Transport, Faculty of Law and Political Science, Aix-Marseille University, 2007.