

**POLITICAL CONSTITUTION OF THE REPUBLIC
OF CHILE**

CHAPTER III CONSTITUTIONAL RIGHTS AND OBLIGATIONS

Article 19: The Constitution guarantees to all persons:

23. Freedom to acquire ownership over all types of property except that which nature has made common to all men or which should belong to the entire Nation, and that the law so declares. The above is without prejudice of what is prescribed in other precepts of this Constitution.

When the national interest demands it, a law passed by a qualified quorum may establish limitations or requirements for acquiring ownership over specific property;

24. The right of ownership in its diverse aspects over classes of corporeal and incorporeal property.

Only the law may establish the manner to acquire property and to use, enjoy and dispose of it, and the limitations and obligations derived from its social function. Said function includes all the requirements of the Nation's general interest, the national security, public use and health, and the conservation of the environmental patrimony.

In no case may anyone be deprived of his property, of the assets affected or any of the essential faculties or powers of ownership, except by virtue of a general or a special law which authorises expropriation for the public benefit or the national interest, duly qualified by the legislator. The expropriated party may protest the legality of the expropriation action before the ordinary courts of justice and shall, at all times, have the right to indemnification for patrimonial harm actually caused, to be fixed by mutual agreement or by a sentence pronounced by said courts in accordance with the law.

In the absence of an agreement, the indemnification shall be paid in cash.

Material possession of the expropriated property will take place following total payment of the indemnification which, in the absence of an agreement, shall be provisionally determined by experts in the manner prescribed for by law. In case of protest regarding the justifiability of the expropriation, the judge may, on the merit of the information adduced, order the suspension of the material possession.

The State has absolute, exclusive, inalienable and imprescriptible domain over all mines, including guano deposits, metal bearing sands, salt mines, coal and hydrocarbon deposits and the other fossil substances, with the exception of superficial clays, despite the ownership held by individuals or body corporate over the land in which the above should be contained. The superficial landed property shall be subject to the obligations and limitations prescribed for by law to facilitate exploration, exploitation and development of said mines.

The law is to determine what substances of those referred to in the preceding paragraph, excepting liquid or gaseous hydrocarbons, may be the subject to exploration or exploitation concessions. Such concession shall always be constituted by court decision and shall have the duration, shall confer the rights and impose the obligations prescribed by a law; this law shall be

of a constitutional organic character. The mining concession obligates the owner to undertake the necessary activity to satisfy the public interest which justifies the granting thereof. Its mining rights shall be established by said law, tending directly or indirectly to obtain fulfilment of that obligation, and providing the grounds for caducity in case of non-fulfilment or for simple extinguishment of domain over the concession. In any case, such grounds and effects thereof, must have been established at the time when the concession is granted.

The authority to declare the expiry of such concession shall rest exclusively with the ordinary courts of justice. They shall settle the controversies which may arise with respect to the caducity or expiry of the domain over the concession; in the case of caducity, the affected party may request the courts of justice for a declaration of the subsistence of his rights.

The domain of the owner of the record over his mining concession is protected by the constitutional guarantees herein dealt with.

The exploration, exploitation or development of deposits which contain substances not susceptible to concession, may be performed directly by the State or by its agencies or by means of administrative concessions or special operation contracts, with the requirements and under the conditions which the President of the Republic may establish, for each case, by supreme decree. This norm shall also be applicable to the deposits of any kind existing in sea waters subject to national jurisdiction and those, wholly or partly, situated in zones which, according to law, are declared to be of importance to the national security. The President of the Republic may, at any time, without standing the reason therefor and with the corresponding indemnification, terminate administrative concessions or operating contracts relative to exploitation in zones declared to be of importance to the national security.

The rights of private citizens over waters, recognised or constituted in conformity with the law, shall grant proprietorship to the owners thereof;

TRANSITORY PROVISIONS

Second. Until the time of issuance of the new Mining Code which is to regulate, among other matters, the form, conditions and effects of mining concessions as referred to in paragraphs seven to ten of number 24, Article 19 of this Political Constitution, the holders of mining rights, in the capacity of concessionaires, shall be subject to the legislation prevailing at the time this Constitution has entered into force. The mining rights referred to in the preceding paragraph, shall subsist under the new code; however, as regards enjoyment of and levies imposed on such rights, as well as extinction thereof, the provisions of said new Mining Code shall prevail. This new code shall grant a term for concessionaires to comply with the new requirements which may be established in order to be entitled to legal protection.

During the time between the date on which this Constitution enters into force and that on which the new Mining Code has become effective, the mining rights constituted as a concession pursuant to paragraphs seventeen of N°24, Article 19 of this Constitution, as well as the concessions granted, shall continue to be governed by the current legislation.

Third. The Large Copper Mining Industry and the enterprises considered as such, nationalised by virtue of transitory provision 17 of the 1925 Political Constitution, shall continue to be governed by constitutional norms in force on the date of promulgation of the present Constitution.

Fifth. The laws currently in force on matters which, according to this Constitution, be governed by constitutional organic laws or be approved by a qualified quorum, shall be understood to meet these requirements and shall continue to be applied in so far as they are not contrary to the Constitution, until the pertinent legal bodies are issued.