

THE SPECIFICITIES OF THE INSTITUTION FOR THE PROMOTION AND MANAGEMENT OF STARTUP SUPPORT STRUCTURES



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Abstract:

The Algerian legislator has designated the establishment for the Promotion and Management of Startup Support Structures as a public establishment with an industrial and commercial character. This designation grants it several unique characteristics, including legal personality, financial independence, and diverse funding mechanisms. These features reinforce its intended role of promoting and supporting startups.

The Establishment is also subject to internal and external control. As a public establishment of an industrial and commercial nature, its disputes are adjudicated primarily by administrative courts and ordinary courts, with arbitration being the exception.

Key Words: Startup; Business Accelerator; Funding; Oversight; Judiciary.

خصوصيات مؤسسة ترقية وتسيير هياكل دعم المؤسسات الناشئة

ملخص:

أضفى المشرع الجزائري على مؤسسة ترقية وتسيير هياكل دعم المؤسسات الناشئة المؤسسة العمومية ذات الطابع الصناعي والتجاري، هذا ما جعلها تتميز بمجموعة من الخصوصيات، وذلك من خلال تمتعها بالشخصية المعنوية، والاستقلال المالي، وتتعدد صيغ تمويلها، هذا ما يعزز الدور الذي انشأت من أجله، المتمثل في ترقية ودعم المؤسسات الناشئة.

كما تخضع هذه المؤسسة لرقابة داخلية وخارجية، وباعتبارها مؤسسة عمومية ذات طابع صناعي وتجاري يختص في الفصل في منازعاته اكل من القضاء الإداري والقضاء العادي كأصل والتحكيم كاستثناء.

الكلمات المفتاحية: المؤسسة الناشئة، مسرعة الأعمال، التمويل، الرقابة، القضاء.

Les Spécificités De L'institution De Promotion Et De Gestion Des Structures D'appui Aux Startups

Résumé:

Le législateur algérien a conféré à l'Institution de promotion et de gestion des structures d'appui aux startups le statut d'établissement public à caractère industriel et commercial. Ce cadre juridique dote l'institution de plusieurs caractéristiques distinctives, notamment la personnalité juridique et l'autonomie financière, ainsi que la possibilité d'accéder à des sources de financement diversifiées. Ces particularités renforcent sa capacité à accomplir sa mission principale : la promotion et le soutien des startups.

L'institution est également soumise à un contrôle interne et externe. En tant qu'établissement public à caractère industriel et commercial, les litiges impliquant l'institution relèvent généralement de la compétence à la fois des juridictions administratives et civiles, l'arbitrage constituant un mécanisme exceptionnel de règlement des différends.

Mots Clés: Startup; Accélérateur D'entreprises; Financement; le contrôle; Pouvoir Judiciaire.

Introduction:

Through its new economic policy, Algeria seeks to provide a favorable and robust environment aimed at diversifying and increasing the mechanisms dedicated to creating and supporting startups, which are considered a cornerstone of the economic plan. This is achieved by creating a new business model focused on new technologies and the knowledge economy. Therefore, it established the first business accelerator under Executive Decree No. 20--356¹, named the "Establishment for the Promotion and Management of Startup Support Structures." This establishment can thus be considered an instrument of public authority for implementing the national policy for developing and promoting startups, and also the first public institution in Algeria dedicated to supporting and mentoring startup structures.

In principle, the Foundation for the Promotion and Management of Startup Support Structures is a new legal entity that works to develop startups that have completed the incubation phase. Its purpose is to strengthen the startup ecosystem in Algeria, promote and support national competencies in the field of innovation, and improve the skills of young people.

Accordingly, the importance of the study is highlighted by demonstrating the distinctive character of the business accelerator represented by the institution for the promotion and management of support structures for emerging institutions compared to business incubators in terms of reviewing its status as a public institution of an industrial and commercial nature that enjoys legal personality and financial independence, and to which it has been granted tasks and powers by the regulator aimed at achieving the state's program in general, which is represented in the development and promotion of emerging institutions and other institutions that the state wishes to make into productive institutions that achieve important results for the Algerian economy.

Accordingly, the central question of this research paper is whether it is possible to assert the existence of a special legal status for the institution promoting and managing support structures for emerging institutions in order to achieve its legally assigned tasks?

To address the research question posed in this study, a descriptive approach was employed to identify specific aspects related to business accelerators, along with an inductive approach through the analysis of a set of legal texts pertaining to the

¹ Executive Decree No. 20-356 dated November 30, 2020, establishing an institution for the promotion and management of support structures for emerging businesses and defining its tasks, organization and operation, Official Gazette No. 73, issued on December 6, 2020.

institution responsible for promoting and managing support mechanisms for emerging businesses. Consequently, the research is divided into two parts:

THE FIRST TOPIC: Section One: Determining the legal status of the Institution for the Promotion and Management of Startup Support Structures

THE SECOND TOPIC: Oversight of the Institution for the Promotion and Management of Startup Support Structures.

THE FIRST TOPIC

The Legal status Governing the Promotion and Management Institution for Startup Support Structures

Executive Decree No.20- 356, mentioned above, established an institution for the promotion and management of support structures for emerging businesses, with the aim of achieving economic development in the field of innovation and the knowledge economy. According to Article 1/1 of the same decree, this institution is a public institution of an industrial and commercial nature, and is therefore subject to a combination of public and private law rules, just like any other institution of a commercial and industrial nature, in accordance with the provisions of Law No. 88-01, which was partially repealed².

This type of institution, considered the optimal model for managing public economic facilities, was distinguished by the legislator from business incubators³ and assigned to it a special legal framework. This was achieved through the institution's legal personality (first requirement), in addition to the various financing options available to it (second requirement) .

The First Requirement: The Legal Personality of The Institution for The Promotion and Management of Startup Support Structures

2- Article 45 of Law No. 88-01 dated January 12, 1988, containing the guiding law for public economic institutions, Official Gazette No. 2, issued on January 13, 1988. (Partially repealed).

³ See Executive Decree No. 20-254 dated September 15, 2020, which establishes a national committee for awarding the label "Startup Enterprise", "Innovative Project", and "Business Incubator", and defines its tasks, composition and operation, Official Gazette No. 55, issued on September 21, 2020.

Article 2 of Executive Decree No. 356-20 mentioned above stipulates that "the institution is placed under the supervision of the Minister in charge of startups and enjoys legal personality and financial autonomy." Based on this, the institution acquires legal personality upon fulfillment of a number of conditions (Section First), resulting in significant legal consequences (Section Second).

The First Section: Conditions For Acquiring Legal Personality for The Institution for the Promotion and Management of Startup Support Structures:

The legal personality of a public institution of an industrial or commercial nature begins as soon as the law recognizes its existence. That is, the law defines the conditions and procedures that must be met for it to be recognized as a legal entity. Among the most important of these conditions are the actual existence of the institution (A) and the necessity of legal recognition (B).

A. Requirement of factual existence:

The Requirement of factual existence is fulfilled by the deliberate intent of natural persons to establish this public institution, provided that its essential elements are present namely, the presence of persons or capital and a shared purpose. This intent is typically formalized in the form of a contract, minutes, or a legally required document.

The condition of the actual existence of the institution: This condition refers to the intention of natural persons to establish any legal entity, including this institution under study, provided that it fulfills its specific requirements, which are:

- The presence of persons or funds.
- The existence of a common purpose.
- The expression of this intention, usually in the form of a contract, minutes, or form required by law.

B. Condition of Legal Recognition:

The legal recognition requirement means that the competent authorities in the state must issue a declaration acknowledging the legal existence of the legal entity⁴, thereby granting it legal personality.

Here, the law is what gives legal birth to any institution, including the support institution under study.

4- Article 49 of Law No. 05-10, "Ordinance No. 75-58 of September 26, 1975, Containing the Civil Code," Official Gazette no. 44 (Algiers, Algeria: General Secretariat of the Government, June 26, 2005).

The law may directly create the legal entity, such as a municipality, a state, or public institutions of an industrial and commercial nature. Recognition may take several forms, including:

- An accreditation decision for associations.
- Publication and registration of the articles of association for companies.
- Registration in the commercial register, etc.

Given that the institution for promoting and managing support structures for emerging institutions has been recognized under the aforementioned texts, even though they are regulatory texts and not legislative texts, it has thus met the condition of legal recognition and therefore confirms its acquisition of legal personality.

The Second Section: Manifestations of Acquiring Legal Personality for the Institution for the Promotion and Management of Startup Support Structures:

Acquiring legal personality entails several legal consequences arising from the legal classification of the institution for the promotion and management of startup support structures. This is reflected primarily in the institution's legal capacity to acquire rights and assume obligations (A), as well as its financial independence (B).

A. Legal Capacity to Acquire Rights and Assume Obligations:

One of the prominent effects of acquiring legal personality for any legally established institution is its acquisition of legal capacity, as stipulated in the general rules for acquiring capacity contained within the provisions of the Civil Code. The institution under study is no exception to this.

Accordingly, the institution for promoting and managing support structures for emerging institutions can undertake unilateral and contractual legal actions, given its acquisition of rights and assumption of obligations, which facilitates the execution of its tasks. This is stipulated in Article 5 of Executive Decree No.20- 356⁵ mentioned above, as follows:

- Conclude contracts or agreements with national and foreign entities relevant to its field of activity.

5- Fateh Khilaf, "The Impact of Business Accelerators on the Role of Startups: Algeria Venture—An Analytical Reading of Executive Decree No. 20-356," Journal of Research in Contracts and Business Law, Faculty of Law and Political Science, University of Frères Mentouri Constantine (2021), p. 167.

- Undertake all industrial, commercial, real estate, and movable operations related to its activities.
- Engage any qualified expert or national body to provide expertise, supervision, and support to startups in the course of its operations⁶.

Legal capacity is acquired by performing the following actions:

- 1- Legal Capacity:** Legal capacity is the most important characteristic of a legal entity, as it allows the entity to engage in any activity, provided it is not contrary to the law and its legal capacity does not preclude it.

Legal entities possess the legal authority to be either plaintiff or defendant; this is known as their legal capacity to litigate, as emphasized in Article 49 of the Civil Code. This refers to the entity's ability to perform procedural acts before the courts⁷. Legal capacity is established for legal entities upon their registration. Therefore, the Foundation for the Promotion and Management of Support Structures for Emerging Enterprises, as a public legal entity, possesses legal capacity within the limits defined by law, enabling it to acquire rights and assume obligations.

- 2- Enjoyment of Public Authority Privileges:**

Articles 1 and 4 of Executive Decree No. 20-356 stipulate that the Institution for the Promotion and Management of Start-up Support Structures acts as an instrument of public authority tasked with implementing the national policy for the promotion and management of start-up support structures. This status grants it privileges associated with public authority, allowing it to exercise certain state powers as a public legal entity. Its decisions are therefore administrative in nature and can be enforced without prior judicial authorization⁸

B. Financial Independence:

Financial independence is a direct consequence of recognizing the Institution for the Promotion and Management of Start-up Support Structures as a legal entity. Article 2 of Executive Decree No. 20-356 confirms that the institution enjoys financial autonomy, possessing its own financial resources and budget separate from the state. Its Director General is responsible for preparing the institution's draft budget, which is then submitted to the Board of Directors for approval. This

⁶ Khallaf fatah "The Impact of Business Accelerators on the Role of Startups" (Algeria Venture), an analytical reading of Executive Decree No. 20-356, Journal of Research in Contracts and Business Law, Faculty of Law and Political Science, Mentouri Brothers University, Constantine, Volume 06, Issue 04, 2021, p. 167.

⁷ See Article 459 of Law No. 08-09 of February 25, 2008, containing the Code of Civil and Administrative Procedure, Official Gazette No. 21, issued on April 23, 2008, as amended and supplemented by Law No. 22-13 of July 12, 2022, Official Gazette No. 48, issued on July 17, 2022.

8- Khayra Bourzig, "The Institution Algeria Venture as a New Mechanism for the Promotion and Management of Startup Support Structures," Journal of Academic Studies, University Center of Aflou (2021), p. 3.

framework allows the institution full oversight over the size and sources of its wealth, while its general budget is financed by the State's public treasury.

The autonomy of the Institution for the Promotion and Management of Startup Support Structures is not absolute, as it remains subject to the oversight of the Minister responsible for startups. Furthermore, the initial allocation granted to the institution is determined by a joint decision between the Prime Minister in charge of finance and the Minister responsible for startups. This arrangement may constrain the institution's operations in accordance with the provisions of Article 69 of the 2015 Supplementary Finance Law.⁹ Additionally, the revenues generated from its activities including appropriations and contributions allocated to public institutions, bodies, and any other entities regardless of their legal status (with the exception of public administrative bodies) from the state budget, as well as contracted loans, grants, and bequests are recorded accordingly. On the expenditure side, beyond operational and equipment costs, all expenses related to the institution's scope of activity are included.

The Second Requirement: The Various Funding Mechanisms for The Institution for The Promotion and Management of Startup Support Structures.

The institution for the Promotion and Management of Startup Support Structures requires funding to strengthen itself, expand its activities, and achieve its objective of supporting and developing startups.

According to Executive Decree No. 356-20, the Foundation for the Promotion and Management of Startup Support Structures has a separate financial status from that of its founders or managers. It is provided with its own assets and resources (first Section), and also benefits from an initial allocation of a specific amount, determined by a joint decision of the Minister of Finance and the Minister in charge of Startups (Second Section).

The First Section: Self-Financing of the Institution for the Promotion and Management of Startup Support Structures

As a public entity of an industrial and commercial nature with a financial structure independent from the State, the institution relies primarily on self-financing. It is obligated to depend on its own resources to fund its investments and meet both its capital and operational needs, retaining any surplus generated from its activities. Its financial assets remain separate from those of the individuals who established or

9- Supplementary Finance Law, "Supplementary Finance Law for the Year 2015 Amending and Supplementing Ordinance No. 15-01 of July 23, 2015," Official Gazette no. 40 issued July 23, 2015.

manage it. However, due to the structural budgetary deficits, the institution's internal resources are often insufficient, leading it to resort to borrowing from banks¹⁰.

It should be noted that Banks provide loans to public institutions whose objective is to manage a public service, based on their capabilities, the type of technology employed, and their actual financial status. This process involves conducting a forward-looking economic study of the project, analyzing the probabilities of success and failure.

The Second Section: State Treasury Funding for the Institution for the Promotion and Management of Startup Support Structures

Public institutions with an industrial and commercial character receive operating subsidies from the State General Treasury, as self-generated funding remains limited. Although the primary objective of economic public institutions is to generate profit when providing public services, they often remain a financial burden on the state, with the exception of those operating in the energy and hydrocarbons sectors¹¹.

The institution benefits from an initial allocation, the amount of which is determined by a joint decision between the Minister of Finance and the Minister responsible for startups. Additionally, the institution receives an annual financial contribution from the state in exchange for the public service obligations it undertakes, as stipulated in Article 3 of the terms of reference related to the public service obligations assumed by the Institution for the Promotion and Management of Startup Support Structures.¹² The state budget includes the following:

A. Revenues

The institution manages a dedicated budget that includes revenues from the initial allocation, state contributions related to public service obligations (an annual financial contribution from the state), income generated from its activities, contracted loans according to applicable regulations, and grants.

B. Expenses

10- Khayra Bourzig, op. cit., p. 7.

11- Badis Zoghdi and Tarek Kaddouri, "Mechanisms of Public Procurement Financing and Their Impact on the Efficiency and Quality of Project Execution: A Prospective Analytical Study," Journal of Administrative and Financial Sciences, Faculty of Law and Political Science, University of Frères Hamma Lakhdar El Oued (2022), p. 364.

12- Specification Booklet on Public Service Obligations Guaranteed by the Institution for the Promotion and Management of Startup Support Structures, annexed to Executive Decree No. 20-356 of November 30, 2020, "Establishing the Institution for the Promotion and Management of Startup Support Structures and Defining Its Missions, Organization, and Functioning," Official Gazette no. 73 (Algiers, Algeria: General Secretariat of the Government, December 6, 2020).

This refers to funds allocated for operating and equipment expenses, as well as all costs related to the institution's activities, in accordance with Article 24 of Executive Decree No.20 -356.

THE SECOND TOPIC

Other provisions related to the Promoting and Management Institution for Startup Support Structures

As a public institution of an industrial and commercial nature, the Institution for the Promotion and Management of Startup Support Structures is governed by administrative law in its relations with the State, while its dealings with third parties are regulated by commercial law. This dual legal character accounts for the plurality of judicial bodies competent to hear disputes involving the institution: administrative courts and ordinary courts constitute the principal forums for adjudication, whereas arbitration operates as an exceptional mechanism(Second Requirement).

Granting a public legal entity complete independence from the state does not entail its complete independence. These entities are subject to a system of "administrative oversight" exercised by the central authority to ensure their compliance with the law and the state's general policy, and to prevent them from exceeding the purpose for which they were established (First Requirement).

The First Requirement: The Various Types of Oversight Over the Institution for The Promotion and Management of Startup Support Structures

Addressing the issue of oversight of this institution means examining its compliance with the law, its adherence to the established boundaries in carrying out its activities, and the extent to which it achieves its objectives. There are two types of oversight: internal oversight exercised by the General Assembly and the auditors (First Section), and external oversight exercised by the National Council for State Contributions, the Court of Accounts, and the General Inspectorate of Finance (Second Section).

The First Section: Internal Oversight of Contracts at The Institution for The Promotion and Management of Start-Up Support Structures

Internal oversight refers to the oversight of an institution's activities. This relates to the type of transaction the institution intends to conclude before its implementation, as well as Order No. 01-04 concerning the organization, operation,

and privatization of public economic institutions¹³. Granting an institution the status of a third-party trader entails a reduction in external oversight while simultaneously expanding the scope of internal control to adapt to the requirements of a market economy.

The internal oversight process is carried out by the General Assembly (A) and the auditors (B).

A. Oversight Exercised by the General Assembly:

The General Assembly is considered the supreme authority within public economic institutions, comprising all shareholders who hold key responsibilities in supervising the administrative bodies. The Ordinary General Assembly convenes at least once annually within six months preceding the fiscal year's close. The Extraordinary General Assembly holds specific authority to amend the institution's bylaws. Beyond this, the Ordinary General Assembly is competent in all matters concerning the institution and is empowered to take all necessary decisions to achieve its objectives. Therefore, its jurisdiction is not limited to a specific domain.

Although Executive Decree No. 01-283, which outlines the special structure for the governance and management of public economic institutions,¹⁴ enumerates the main powers of the General Assembly in Article 5, primarily focusing on oversight of management bodies, the Director General, and the Scientific and Technical Council, the General Assembly's role extends broadly to supervisory functions.

B. Oversight Conducted by the Account Delegates:

The supervisory role of the account delegates is manifested in their verification of the institution's ledgers and financial documents. They oversee the accuracy and consistency of the annual accounts as recorded in the books and ensure that the operational results from the previous fiscal year are correctly reflected. Additionally, they review the institution's financial position and assets, analyze documents sent to shareholders regarding the company's financial status and accounts, and approve the inventory system, company accounts, and its resources. The account delegates also ensure compliance with the principle of equality among shareholders. To fulfill these responsibilities, they have the authority to inspect, at any time, the institution's records, balance sheets, correspondence, and any other relevant documents.

The Second Section: External Oversight of the Institution for the Promotion and Management of Startup Support Structures

13- Order No. 01-04 dated August 20, 2001, relating to the organization, operation and privatization of the public economic institution, Official Gazette No. 47, issued on August 23, 2001. Amended and supplemented.

14- Executive Decree No. 01-283, "Concerning the Specific Form of Governance and Management Structures of Public Economic Enterprises," Official Gazette no. 55 issued September 26, 2001.

To ensure continuous and sustained oversight of public economic institutions, dedicated bodies have been established to exercise external oversight. These include primarily the State Contributions Council (A), the Court of Auditors, and the General Inspectorate of Finance (C).

A. Oversight by the State Contributions Council:

The State Contributions Council operates under the authority of the Prime Minister, who chairs the council. Executive Decree No. 253-01, which outlines the composition and functioning of the State Contributions Council,¹⁵ specifies in Article 8 the council's membership as follows:

- Minister of Justice
- Minister of Interior and Local Government
- Minister of Foreign Affairs
- Minister of Finance
- Minister of Participation and Coordination of Reforms
- Minister of Commerce
- Minister of Labor and Social Security
- Minister of Industry
- Delegate Minister to the Minister of Finance responsible for the Treasury and Financial Reform
- The relevant minister(s) related to the agenda items

According to Article 11 of the aforementioned decree, the council is responsible for regulating the economic public sector. In carrying out its duties, the council:

- Defines the overall strategy concerning state contributions and privatization.
- Revises policies and programs related to state contributions and oversees their implementation.

Consequently, the State participates in funding the Institution for the Promotion and Management of Startup Support Structures through its budget. This is evident from Article 23 of Executive Decree No.20- 356, which states, "The institution benefits from an initial allocation determined by a joint decision of the Minister of Finance and the Minister responsible for startups." Furthermore, Article 24 of the same decree provides that "The institution's budget includes... state contributions for the costs associated with public service obligations".

B. Oversight Exercised by the Court of Auditors:

15- Executive Decree No. 01-253, "Concerning the Composition and Functioning of the Council for State Holdings," Official Gazette no. 51 issued September 12, 2001.

Article 199 of Law No. 20-442, which includes the constitutional amendment,¹⁶ establishes that the Court of Auditors enjoys independence and conducts ex-post oversight of the funds of the state, local authorities, and public services.¹⁷ The Court of Auditors was effectively established upon the implementation of the provisions of Law No. 80-05.¹⁸ Currently, its operations are governed by Order No. 20-95, as amended and supplemented by Order No. 02-10, which grants it administrative and judicial powers¹⁹.

Given that the institution for the Promotion and Management of Startup Support Structures is considered an industrial and commercial institution, it is necessarily subject to the oversight of the Court of Accounts, in accordance with the oversight of other institutions that have the same description.

C. Oversight Exercised by the General Inspectorate of Finance:

The General Inspectorate of Finance is responsible for auditing and overseeing the accounts of economic public institutions, in accordance with the provisions of Article 7 bis of the aforementioned Order No. 04-01. Its oversight focuses on:

- Compliance with financial and accounting legislation, particularly legal provisions with direct financial impact.
- The execution and conclusion of all contracts and requests.
- Transactions involving financial liabilities related to both movable and immovable assets.
- Financial management and overall financial status.
- Accuracy and consistency of accounting records.
- The comparison between budget estimates and actual performance.
- The functioning of internal oversights and internal audit structures.

Additionally, the General Inspectorate of Finance oversees the financial and accounting management of state departments, regional associations, as well as bodies, agencies, and institutions subject to public accounting regulations. Its oversight extends to industrial and commercial public institutions and any public institution regardless of its legal status.

16- The constitutional amendment of 2020 issued pursuant to Law No. 20-442 dated December 30, 2020, includes the constitutional amendment, Official Gazette No. 82, issued on December 30, 2020.

17- Walid Beloufa and Ahmed Barakat, "Oversight of Contracts of Public Industrial and Commercial Enterprises," Journal of Law and Political Sciences, Faculty of Law and Political Science, Ahmed Salahie University Center Naama (2024), p. 174.

18- Law No. 80-05, "Concerning the Exercise of Audit Functions by the Court of Auditors," Official Gazette no. , issued on 10 March 1, 1980.

19- Ordinance No. 10-02, "Ordinance No. 95-20 of July 17, 1995, Concerning the Court of Auditors," Official Gazette no. 39 (issued July 23, 1995).

The Second Requirement: Resolving disputes concerning the Institution for the Promotion and Management of Startup Support Structures

Given that the Algerian legislator has designated the Institution for the Promotion and Management of Startup Support Structures as a public entity with an industrial and commercial character, as stipulated in Article 1, paragraph 1 of Executive Decree No.20- 356 referenced above, and based on Article 1, paragraph 2 of the same decree, we find that the Algerian legislator has subjected this institution to a dual legal system. In its relations with the State, it is governed by administrative law, with administrative courts having jurisdiction over disputes with the latter (First Section). It is also governed by commercial law in its relations with third parties, with ordinary courts having jurisdiction over disputes with third parties (Second Section). Because the procedures followed before the courts are complex and time-consuming, the Institution for the Promotion and Management of Startup Support Structures, being a public institution of an industrial and commercial nature, has the right to resort to arbitration as an exception to settle its disputes (Third Section).

The First Section: Jurisdiction of Administrative Courts in Resolving Disputes Involving the Institution for the Promotion and Management of Start-up Support Structures

The legislature has entrusted the public institution with an industrial and commercial character with the management of a public service. Consequently, it has been granted, as an exceptional measure, certain privileges of public authority, thereby subjecting it to public law procedures. In this role of managing a public service, the institution is governed by administrative law rules.²⁰ Disputes arising from this particular aspect fall under the jurisdiction of administrative judges, based on the material criterion relating to the subject matter and the nature of the institution's industrial and commercial activities. However, these institutions cannot be classified as administrative entities, even though their disputes are exceptionally brought before administrative courts.²¹

To facilitate the institution's functions, jurisdiction over its disputes lies with administrative courts, particularly concerning:

- Disputes related to public procurement contracts entered into by the institution, provided these are fully or partially funded by the State treasury.²²

20- Abdelkader Adou, Administrative Litigation, 2nd ed. (Algiers: Houma Printing, Publishing and Distribution, 2014), p. 81.

21- Gharbi Ahsane, "Jurisdictional Division Between Administrative Courts and Ordinary Courts," Al Maydan Journal for Human and Social Sciences, Faculty of Law and Political Science, University of August 20, 1955, Skikda (2021), p. 135.

22- Article 12 of Law No. 23-12, "Defining the General Rules Related to Public Procurement," Official Gazette no. 51 issued August 5, 2023.

- Disputes regarding activities performed by the institution on behalf of the State, which confer powers of public authority, such as granting licenses and permits, and concluding other administrative contracts.
- Disputes involving the institution's Director and Accountant, whose appointments are made by presidential decree and fall within the exclusive jurisdiction of the administrative judiciary.

The Second Section: Jurisdiction of Ordinary Courts in Resolving Disputes Involving the Institution for the Promotion and Management of Start-up Support Structures

The Algerian legislator has assigned certain disputes to the ordinary courts despite the applicability of the organic criterion, which ordinarily determines jurisdiction on the basis of the legal nature of the institution involved. This choice is justified by the nature of the subject matter of such disputes or by other considerations that lead the legislator to consider adjudication by the ordinary judiciary more appropriate than recourse to administrative courts. Accordingly, the legislator departs from the organic criterion of jurisdiction and substitutes it with the material criterion, thereby removing the dispute from the competence of the administrative judge and conferring jurisdiction upon the ordinary courts. This approach reflects the recognition of ordinary courts as possessing greater expertise in matters governed by private law. Consequently, jurisdictional conflicts are generally resolved in favor of the ordinary judiciary.²³

The jurisdiction of ordinary courts over disputes involving the Institution for the Promotion and Management of Startup Support Structures arises when the institution engages in commercial activities that are not aimed at managing a public service. In such cases, the institution is governed by commercial law, meaning all its activities and transactions are treated as private commercial acts. Consequently, disputes arising from these activities are adjudicated by the ordinary courts.

Additionally, the Algerian legislator has assigned jurisdiction to ordinary courts for specific disputes involving the institution. This jurisdiction covers labor-related disputes according to Labor Law No. 90-11,²⁴ conflicts arising with beneficiaries, contractual disputes with suppliers, claims for damages caused to third parties by routine operations, as well as disputes concerning legal acts issued by the institution in relation to its commercial activities. This includes contracts it concludes, including public procurement contracts fully financed from its own resources.

23- Gharbi Ahsane, op. cit., p. 128.

24- Law No. 90-11 of April 21, 1990, "Concerning Labor Relations, Amended and Supplemented by Law No. 91-29 of December 21, 1991; Ordinance No. 96-21 of June 9, 1996; Ordinance No. 97-02 of January 11, 1997; Ordinance No. 97-03 of January 11, 1997; and Law No. 22-16," Official Gazette no. 17 (issued April 26, 1990), no. 68 issued December 25, 1991, no. 43 issued July 16, 1996), no. 03 issued January 12, 1997, and no. 49, July 20, 2022).

The Third Section: Arbitration as an Exception for Resolving Disputes Involving the Institution for the Promotion and Management of Startup Support Structures

Disputes involving the Institution for the Promotion and Management of Startup Support Structures are often complex and diverse, with certain matters falling within the jurisdiction of administrative courts and others within that of the ordinary judiciary. However, this distribution of judicial competence does not preclude either the institution or its contractual counterparties from resorting to arbitration in disputes arising from public procurement, whether at the stage of contract formation or during contract performance. Arbitration is regarded as an alternative and particularly effective means of dispute resolution, distinguished by its specialized procedures and the efficiency of its enforcement mechanisms. These principles are enshrined in Law No. 08-09 governing civil and administrative procedures, as amended and supplemented by Law No. 22-13.

Conclusion:

Given the legal nature of the Institution for the Promotion and Management of Startup Support Structures, this status directly determines its organizational and governance arrangements, as well as the design of its financial framework. Although the institution possesses legal personality and a measure of autonomy, its independence remains limited, as it is subject to the supervision of the minister responsible for startups. Furthermore, it is governed by all forms of oversight prescribed by the applicable laws and regulations

To effectively enhance the role of this institution, Several measures could enhance:

- Encouraging youth entrepreneurship by promoting the establishment of startups, alongside combating various forms of mediation and favoritism within the economic environment.
- Conducting advanced training programs for the institution's staff, while raising awareness about the importance of modern technology, given that the institution's primary goal is to strengthen the startup ecosystem and create opportunities for youth innovation in this field.
- Developing comprehensive economic plans and increasing financial grants to support young innovators, primarily by expanding self-financing sources beyond reliance on the state treasury to achieve the institution's financial autonomy.

Revisiting the oversight framework imposed on the institution and expediting the issuance of regulatory texts governing public procurement authority, to foster the development of this sector, particularly with regard to regulatory aspects.

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