

The role of the state committees established under Article 24 of Law 23/17 in following up and cleansing clearing investment projects licensed prior to its promulgation

دور اللجان الولائية المحدثة بموجب المادة 24 من القانون 17/23 في متابعة وتطهير المشاريع الاستثمارية

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Abstract:

The new investment and industrial property laws have entrusted the task of managing and allocating economic real estate intended for investment, particularly industrial properties, to the Algerian Investment Promotion Agency, granting it exclusive jurisdiction in this domain; However, there are pending issues that; Authorized by decisions made by wails before the two laws were promulgated; Not within the Agency's competence; Whereas Law 23/17 of 11/15/2023 Which defines the terms and conditions of granting economic property belonging to the private property of the State for the completion of investment projects; in article 24 thereof: To establish state committees tasked with following up and cleaning up these investment projects licensed by the wails before the promulgation of this law; this paper sheds light on the role of this committee in this matter; The project has been launched on the basis of a building permit and has reached a 20% completion rate.

Keywords: Provincial decision; concession contract; written authorization; construction permit; completion percentage.

الملخص:

اوكل قانوني الاستثمار والعقار الصناعي الجديدين، مهمة تسير ومنح العقار الاقتصادي الموجه للاستثمار، لاسيما الصناعي منه، للوكالة الجزائرية لترقية الاستثمار، وأصبحت صاحبة اختصاص اصيل ووحيد في ذلك، الا ان هناك حالات عالقة رخص لها بموجب قرارات ولائية قبل صدورهما، ولا تختص بها الوكالة، حيث نص القانون 17/23 المؤرخ في 2023/11/15 الذي يحدد شروط و كفاءات منح العقار الاقتصادي التابع للأموال الخاصة للدولة الموجه لإنجاز مشاريع استثمارية، في المادة 24 منه، على انشاء لجان ولائية تسند لها مهمة متابعة وتطهير هذه المشاريع الاستثمارية المرخص لها من قبل الولاية قبل نشره، حيث تسلط هذه الورقة الضوء على دور هذه اللجنة في ذلك، واليات اثبات الانطلاق في المشروع على أساس رخصة بناء وبلوغ نسبة انجاز 20 %، التي تعد شرط أساسي في عملية المتابعة و التطهير. الكلمات المفتاحية: قرار ولائي؛ عقد امتياز؛ ترخيص كتابي؛ رخصة بناء؛ نسبة انجاز.

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Introduction:

The proposal to grant land intended for investment projects was made prior to the promulgation of Law 23/17¹, which defines the conditions and procedures for granting economic land belonging to the state's private domain for the realization of investment projects. This law was introduced as a mechanism to implement the provisions of Investment Law 22/18², particularly regarding land, and it introduced a new approach to the allocation and management of land designated for investment purposes. This process involved several bodies and institutions, starting with the Committee for Site Identification, Investment Promotion, and Land Regulation, and then delegated to the provincial directors of investment through the Directorates of Industry and Mines, as established by decisions from the governors. However, with the enactment of this new law, the granting of economic land for investment projects became the sole and exclusive responsibility of the Algerian Investment Promotion Agency, which was given the authority as the sole granting body and the entity responsible for follow-up. It was also empowered to take legal measures to revoke the transferable concession right in the event of violations of the terms outlined in the terms of reference. Nevertheless, Article 24 of the law did not overlook the status of investment projects for which concessions had already been authorized by governors prior to the promulgation of this law. It required the establishment and installation of provincial committees tasked with the monitoring and regularization of such projects.

This research aims to shed light on the role of provincial committees in the monitoring and regularization of investment projects that were authorized before the promulgation of this law, as well as the mechanisms for obtaining building permits and starting project implementation, with proof of 20% progress in construction works. It addresses the following central question: What are the responsibilities of the provincial committees in monitoring and regularizing projects, what is their role, and what are their operational mechanisms?

To address the issue at hand, this research paper is divided into two main sections. The first section is devoted to the nature of the Provincial Committees for Monitoring and Regularizing Investment Projects that were authorized prior to the enactment of Law 23/17. This includes an explanation of their establishment, composition, and assigned responsibilities. The second section focuses on the role and mechanisms of these committees in the monitoring and regularization process, by detailing their working methods, including the granting of concessions, the issuance of building permits, and the procedures for verifying the achievement of a 20% completion rate.

1. The Nature of Provincial Committees for Monitoring and Regularizing Investment Projects

After the granting of land intended for investment became the sole and exclusive responsibility of the Algerian Investment Promotion Agency, it became necessary to establish a mechanism to monitor and regularize pending or unresolved situations. This was addressed by Law 23/17, which provided for the creation of committees tasked with this essential mission

1- Law 23/17, dated 15/11/2023, establishes the conditions and procedures for granting economic land from the state's private property for the implementation of investment projects, Official Gazette, Issue 73, published on 16/11/2023

2- Law No. 22-18, dated 24 July 2022, relating to investment, Official Gazette, Issue 50, published on 28/07/2022

to alleviate the burdens faced by investors. Therefore, it is important to examine the nature of these committees by clarifying how they are established, how they are composed, and the responsibilities assigned to them.

1.1- The Establishment and Composition of the Provincial Committees for Monitoring and Regularizing Investment Projects

1.1.1- Establishment

Article 24 of Law 23/17 provides for the establishment of a provincial committee by decision of the Governor, tasked with monitoring and regularizing investment projects in order to resolve the situations that predate the promulgation of the law³. These are projects for which concessions were authorized prior to the law's entry into force, whether through a provincial decision, a concession contract granted to the investor, or a written authorization issued by the Governor. In many cases, these authorizations led to the commencement of the project based on a building permit, with a minimum progress rate of 20% achieved. According to the text, the committee is established and installed by the Governors with the objective of improving the investment climate and ensuring effective support and the necessary facilitation for investors. It is also responsible for monitoring and investigating granted but unutilized land, with a view to initiating regularization procedures for its current holders. The committee is required to report its findings to the competent authorities, in order to initiate procedures for the cancellation of previously granted benefits—whether based on a Governor decision, a concession contract, or even in cases where investors hold written authorizations⁴.

1.1.2- Composition

The provincial committee, chaired by the Governor or their representative, with the Directorate of Industry acting as its secretariat, is composed of the following members:

- The President of the Provincial People's Assembly or their representative: According to the provisions of Article 77 of the Wilaya Law, the responsibilities of the President of the Provincial People's Assembly include matters related to investment and economic issues, as outlined in Articles 80, 81, and 82 of the law⁵.
- The Director of State Property: This is due to the fact that all investments are granted on land that falls under the state's private property, in accordance with Law 08/04⁶, which defines the conditions and procedures for granting concessions on land belonging to the state's private domain. The Director also exercises the powers granted to them under the provisions of this law, particularly Articles 04, 05, 06, and 14⁷.

3- See Article 24 of Law No. 23/17 of November 15, 2023, previously cited.

4- See Article 15 of Law No. 11/11 of July 18, 2011, concerning the Supplementary Finance Law for 2011, Official Gazette No. 40, published on July 20, 2011. (At that time, concessions were granted through an open or restricted public tender, or by mutual agreement, while authorizations were granted either by the competent minister or by a decision of the governor, depending on the case. With the amendment of Article 5, concessions were subsequently granted by authorization from the governor, based on a proposal submitted by the Committee for Site Identification, Investment Promotion, and Land Regulation.)

5- Law No. 12/07 of February 21, 2012, relating to the Wilaya (Province), Official Gazette, No. 12 of 2012, published on February 29, 2012

6- Ordinance No. 08/04 of September 1, 2008, establishing the terms and conditions for granting concessions on land belonging to the private domain of the State, intended for the realization of investment projects, Official Gazette No. 49 of 2008, published on September 3, 2008

7- See Law No. 23/17 of November 15, 2023, previously cited.

- The Director of Land Surveying and Property Registration⁸:
- The Director of Industry: In addition to being a member of the committee, the Director of Industry also serves as the committee's secretary
- The Director of Urban Planning, Architecture, and Construction: He is an important member due to the role played by his department in the issuance of urban planning permits for investment projects⁹.
- The Director of Tourism
- The Director of Agricultural Services: This position is responsible for determining and verifying that the land granted for investment projects, particularly those granted through provincial decisions or written authorizations, is not classified as agricultural land under the provisions of Article 02/02¹⁰ of Order 08/04, which corresponds to Article 03 of Law 23/17. The director exercises these powers in collaboration with the
- National Agricultural¹¹ Land Office, which is under his supervision. The latter's main role is to implement agricultural land policy¹².
- The Director of Energy and Mines: This position is responsible for determining and verifying that the land granted for investment projects, particularly those granted through provincial decisions or written authorizations, is not located within mining areas, areas designated for hydrocarbon exploration and exploitation, or areas designated for the protection of electrical and gas installations, as defined in Articles 02/04¹³ and 03/17 of Order 08/04, which correspond to Article 03 of Law 23/17.
- The President of the Municipal People's Assembly of the municipality in which the investment is located, or their representative.
- A representative of the Algerian Investment Promotion Agency.

1.2- Duties of the Provincial Committees for Monitoring and Regularizing Investment Projects:

In carrying out the powers entrusted to them regarding the monitoring and regularization of investment projects authorized by provincial decisions, concession contracts, or written authorizations, these provincial committees are responsible for the following tasks:

- (...Monitoring the implementation of investment projects...) This responsibility was previously assigned to the Committee for Site Identification, Investment Promotion, and

8- See Article 10 of Executive Decree No. 21/393 of October 18, 2021, establishing the organization of the external services of the General Directorate of National Property and defining their powers, Official Gazette No. 80, published on October 20, 2021.

9- See Articles 41 and 49 of Executive Decree No. 15/19 of January 25, 2015, which defines the procedures for preparing and issuing urban planning documents, Official Gazette No. 07, published on February 12, 2015, as amended and supplemented.

10- See Article 02 of Ordinance No. 08/04 of September 1, 2008, establishing the terms and conditions for granting concessions on land belonging to the private domain of the State and intended for investment projects, Official Gazette No. 49, published on September 3, 2008 (repealed), and Article 03 of Law No. 23/17 of November 15, 2023, previously cited

11- Decree No. 96-87 of February 24, 1996, establishing the National Office for Agricultural Lands (ONTA), Official Gazette No. 15, published on February 2, 1996, as amended and supplemented

12- See Law No. 03-10 of August 15, 2010, defining the terms and conditions for the exploitation of agricultural land belonging to the private domain of the State, Official Gazette No. 46, published on August 18, 2010

13- See Article 02 of Ordinance No. 08/04 of September 1, 2008, previously cited, and Article 03 of Law No. 23/17 of November 15, 2023, previously cited.

Land Regulation, in accordance with Article 02¹⁴ Executive Decree No. 10/20 and Articles 11 and 19¹⁵ of Executive Decree No. 09/152, which entrusted it with monitoring the implementation of investment projects. It corresponds to Articles 13, 14, and 17¹⁶ of Executive Decree No. 23/487. Following the dissolution of that committee, the task was transferred to the provincial committees, which are now responsible for monitoring the process by verifying whether the beneficiaries of the granted industrial land have effectively begun the implementation of the projects for which the land was allocated. The committees are also tasked with identifying and removing any obstacles that may hinder project realization. In cases where the land remains unused, a report must be submitted to initiate revocation procedures.

- Issuing a formal notice to the concession holder in order to rectify any violation of the legislation or the obligations outlined in the terms and conditions attached to the concession contract. If the notice proves ineffective, legal proceedings for the revocation of the concession right shall be initiated by the territorially competent Director of State Property. This follows the committee's verification that the investment project, despite having obtained a building permit under the provisions of Article 11¹⁷ of Law 08/04 and Article 14¹⁸ of Law 23/17, has not commenced or has not reached 20% completion. In such cases, the project owner is formally notified, and if no action is taken, revocation proceedings are brought before the competent judicial authorities. It is worth noting that Article 21¹⁹ of Executive Decree No. 09/152 provides that if the investment project is not completed within the timeframe granted under the terms and conditions following the issuance of the building permit, an extension ranging from one to three years may be granted. This raises the question: Is the intervention of the provincial committees for the purpose of revocation limited only to such situations, or does it apply to all cases of non-compliance? This ambiguity necessitates clarification from higher authorities to avoid confusion and potential unequal treatment in revocation procedures. Ultimately, revocation is a consequence of breaching the provisions and obligations set out in the terms and conditions, and the State Property Administration is responsible for initiating legal action before the territorially competent courts.
- "... Deciding on requests submitted by concessionaires regarding changes in activities based on justified objective reasons, and deciding on requests from concessionaires concerning changes in the beneficiary's name from an individual to a legal entity or the

14- See Article 02 of Executive Decree No. 10/20 of January 12, 2010, concerning the organization of the Committee for Site Identification, Investment Promotion, and Land Regulation, its composition and operations, Official Gazette No. 04, published on January 17, 2010. (Repealed)

15- See Articles 11 and 19 of Executive Decree No. 09/152 of May 2, 2009, establishing the terms and conditions for granting concessions on land belonging to the private domain of the State, intended for investment projects, Official Gazette No. 27, published on May 6, 2009. (Repealed)

16- See Articles 13, 14, and 17 of Executive Decree No. 23/487 of December 28, 2023, establishing the terms and conditions for granting transferable concessions on economic land belonging to the private domain of the State, intended for investment projects, Official Gazette No. 85, published on December 30, 2023

17- See Article 11 of Ordinance No. 08/04 of September 1, 2008, previously cited.

18- See Article 14 of Law No. 23/17 of November 15, 2023, previously cited.

19- See Article 21 of Executive Decree No. 09/152 of May 2, 2009. It is important to note that the new procedures regarding the revocation of transferable concessions for waiver now allow for revocation by one party without resorting to the judiciary, as stipulated in Article 21 of Law No. 23/17

legal form of the company benefiting from the concession in order to complete pending investment projects, provided that the original concessionaire retains the majority of shares until the actual completion of the project and the issuance of the compliance certificate and entry into service." By analyzing this paragraph from Article 25 of Law 23/17, we see that the legislator considered certain situations that were barriers to investors in implementing their projects, particularly in the area of financing. Some financial institutions require the beneficiary of financing to be a legal entity represented by a company or its legal form if the company is the one benefiting from the concession. The law allows the committee to decide on such requests, but with the two main conditions specified in Articles 24²⁰ of the same law: (1) the applicant must have obtained the building permit in the capacity of the beneficiary of the concession, and (2) they must prove that the construction progress has reached at least 20%. Additionally, the original concessionaire must hold the majority of shares in the company or institution until the compliance certificate is issued, and the investment project enters into service."

- "... Preparing a report every two months that includes the status of monitoring and regularizing investment projects, which is sent to the Algerian Agency for Investment Promotion." By analyzing this paragraph, we understand that the legislator has mandated the committees to prepare a report on their activities and send it regularly every two months. This requirement is meant to encourage the committees to expedite the resolution of all pending cases presented to them. The reason for sending the report to the Algerian Agency for Investment Promotion is that, after regularizing these projects, they come under its authority. The agency is the only body entrusted with the process of granting and monitoring economic land, in addition to enabling the owners of these investment projects to benefit from converting their non-transferable rights to a transfer, according to Executive Decree 23/487²¹, Articles 15 and 16. In the case of revocation of the right, the agency has the option to reintroduce the land on the digital platform for receiving new applications.

2. Mechanisms for Obtaining a Building Permit and Proving 20% Progress in Construction

The legislator has mandated that any case or request examined by the relevant provincial committees responsible for monitoring and regularizing licensed investment projects granted concessions prior to the entry into force of Law 23/17 on economic real estate, must meet two conditions: the investor must have obtained a building permit, and the project must have achieved a progress rate of no less than 20%. This section highlights the procedures for obtaining a building permit, followed by a presentation of the mechanisms used to verify this 20% implementation progress of the investment project.

2.1- Mechanisms for Obtaining a Building Permit

Referring to Article 24²² of the aforementioned Law No. 23/17, it stipulates that any project granted a concession right prior to the issuance of this law must have commenced

20- See Articles 24 and 25 of Law 23/17 dated 15/11/2023, previously cited

21- See Articles 15 and 16 of Executive Decree 23/487 dated 28/12/2023, previously cited

22- See Article 24 of Law No. 23/17 dated 15/11/2023, previously cited

implementation and must have obtained a building permit. Accordingly, we will address the conditions required to obtain such a permit as outlined in urban planning legislation. Furthermore, we will analyze the specific cases mentioned in Article 24 of Law No. 23/17 in light of the requirements set forth in Executive Decree No. 15/19 regarding eligibility for a building permit.

Particular attention will be given to the legal gap concerning situations in which it is not possible to benefit from a building permit; as such, scenarios are not explicitly addressed in the current legal framework.

2.1.1- Preparation and Issuance of the Building Permit

A. Definition of the Building Permit

The Algerian legislator has not provided a specific definition for the building permit, unlike other comparative legal systems. This legislative silence has led legal scholars to formulate definitions based on the applicable legal texts. One of the most accurate definitions, aligning closely with the provisions of Executive Decree No. 15/19²³, describes the building permit as follows:

(A building permit is an administrative decision issued by a legally competent authority, by which a natural or legal person is granted the right to construct a new building or modify an existing one, provided that such works comply with urban planning regulations and are undertaken only after obtaining the permit)²⁴.

B. License application

Regarding the building permit application, the text of the article 50 states²⁵: From the law 90/29 related to planning and construction, states that no one other than the owner of the land may obtain a building permit because the right to build is linked to his ownership of the land, but Article 42²⁶ From the executive decree 15/19 It enabled some persons to exercise their right to request a building permit, as it specified them as the owner, his agent, the tenant with a legal license, or the authority or department to which the plot of land or building is allocated.

The documents proving this are the ownership contract, the real estate registry, or an administrative contract (concession contract) for those who have been granted the concession to establish investment projects or for farmers.

C. Components of the building permit application file:

At this point, we focus on what is important in the subject of our study, and we only list the remaining elements:

- Supporting management documents for the license applicant and the person who has verified his status: specified in the text of the article 42/2²⁷ From the Executive Decree 19/15 and it is:
 - Either a copy of the ownership contract.

23- Executive Decree No. 15/19 dated 25/01/2015, previously cited.

24- Azri El-Zeban, The Legal System of the Building Permit in Algerian Legislation, Journal of Human Sciences, Mohamed Khider University of Biskra, Issue No. 08, June 2005, p. 04

25- Law No. 90-29 dated 01/12/1990 on Land Use and Urban Planning, Official Gazette No. 52, issued on 02/12/1990, p. 1652, as amended and supplemented by Law No. 04-05 dated 14/08/2004, Official Gazette No. 51, issued on 15/08/2004.

26- Executive Decree No. 15/19 dated 25/01/2015, previously cited

27- Executive Decree No. 15/19 dated 25/01/2015, previously cited

- A copy of the certificate of possession in accordance with Article 39 of Law 90/25²⁸.
- Power of attorney in accordance with the provisions of the Civil Code²⁹.
- A copy of the administrative contract that includes the allocation of the plot of land or building³⁰
- A copy of the articles of association if the owner or his agent is a legal person.

D. Files attached to the license applicant:

Specified in the text of the article 43 of Executive Decree 19/15, which is:

Administrative file: Must include:

- References for the subdivision license for buildings programmed on a plot of land located within a subdivision designated for housing or for another purpose.
- The decision of the competent authority that licenses the establishment or expansion of industrial and commercial establishments classified in the categories of dangerous, unsafe, and nuisance establishments³¹.
- A certificate of usability is issued in accordance with the provisions mentioned above for buildings located within subdivided lands with a subdivision license³².

These required documents are of utmost importance for the exploitation of economic real estate, as they prove that industrial zones or activity areas are divided and fully prepared after obtaining a certificate of usability. In addition, these projects must obtain a certificate of non-impact on the environment, which facilitates the work of the provincial committees with regard to the tasks assigned to them and their verification.

Architectural file: Where it states³³ from the decree 15/19 The file must be accompanied by a set of plans with specific dimensions, depending on the nature of the property being requested, consisting of a memorandum including a descriptive and estimated list of the works and their completion, as well as written and graphic documents indicating the construction in shares, if necessary.

Technical file: According to the text of the article 43³⁴ From the decree 15/19 I set it on: Number of workers and reception capacity of the premises, method of roof construction and type of materials used, brief description of the electricity, gas, heating and drinking water supply systems, sewage and ventilation networks, designs of wastewater drainage networks, brief description of the facilities for producing, processing and storing raw materials and manufactured products, means of defense and rescue from fires, type of liquid, solid and

28- See Article 39 of Law No. 90-25 dated 18 November 1990 on Land Guidance, Official Gazette No. 49 of 1990, as amended and supplemented

29- Ordinance No. 75/58 dated 26/09/1975, containing the Civil Code, Official Gazette No. 78, issued on 30/09/1975, as amended and supplemented

30- See Article 11 of Ordinance No. 08/04 dated 01/09/2008, previously cited, and Articles 85–88 of Law No. 90-30 dated 01/12/1990 on the National Property Law, Official Gazette No. 52, issued on 02/12/1990, as amended and supplemented

31- Executive Decree No. 06-198 dated 31/05/2006 regulating the organization applicable to classified establishments for the protection of the environment, Official Gazette No. 37, issued on 04/06/2006

32- See Article 28 of Executive Decree No. 15/19 dated 25/01/2015, previously cited.

33- See Article 28 of Executive Decree No. 15/19 dated 25/01/2015, previously cited.

34- See Article 28 of Executive Decree No. 15/19 dated 25/01/2015, previously cited.

gaseous materials and their quantities harmful to public health, agriculture and the environment contained in the discharged wastewater, gas emissions, treatment, storage and filtration systems, noise level emitted for buildings with industrial and commercial use and establishments receiving the public.

E. Study of civil engineering

It consists of the following:

A report prepared and signed by a certified civil engineer, designs of the complete structures of the building, with an explanation of the dimensions of the facilities and elements that make up the structure, on the same scale as the designs of the architectural engineering file.

As for the body entrusted with issuing the building permit

The article 48 states³⁵: as ((When the issuance of a building permit falls under the jurisdiction of the President of the Municipal People's Council, the application is studied by the municipality's single window, where its composition and procedures are determined in accordance with the provisions of Article 58 of this Decree))

The article 49 states³⁶: Whereas ((when the issuance of the building permit falls under the jurisdiction of the governor or the minister in charge of urban planning, the president of the municipal people's council shall send the application file attached with the opinion of the urban planning departments affiliated with the municipality in seven (7) Copies shall be sent to the State Department in charge of urban planning for the purpose of expressing a corresponding opinion within eight (8) days following the date of submitting the application. The file shall be prepared by the single window of the state, whose composition and procedures shall be determined in accordance with the provisions of Article 59 of this decree.

2.1.2 Discussion of the cases mentioned in the article 24³⁷ from the law 23/17 with the conditions of Decree 15/19 to obtain the license:

Referring to the text of the article 42³⁸ From the decree 15/19 We find it stipulates that the applicant for a building permit must be the owner of the property by virtue of an official contract or a real estate registry... a copy of the administrative contract that includes the allocation of the plot of land or building, as by projecting Article 24 of Law 23/17 we find that the only case in which the owner of the investment project can benefit from a building permit is the holder of a decision to grant the concession granted by the governors and enshrined in a concession contract registered in accordance with the procedures in force in the field of real estate registration.

As for the two cases related to the beneficiary of a concession right by virtue of a decision from the governors or by virtue of a written authorization also issued by the governors, in this case, upon submitting the application, it is met with rejection by the competent single window, due to the lack of an administrative contract proving the concession, and thus the following hypotheses are raised:

- Enabling it to obtain a building permit, based on the directives and facilitations of higher authorities

35- See Articles 48 and 58 of Executive Decree No. 15/19, same reference

36- See Articles 49 and 59 of Executive Decree No. 15/19, same reference

37- See Article 42 of Executive Decree No. 15/19 dated 25/01/2015, previously cited.

38- See Article 24 of Law No. 23/17 dated 15/11/2023, previously cited.

- Granting the license subject to completing the procedures for obtaining the franchise contract.
- For cases that have received concession decisions, they are considered to be at the same level as allocation decisions, and on this basis, a building permit is issued to them.
- Both of these cases result in the rejection of the building permit application.
- In some cases, building permit applications were frozen due to the lack of development plans for tourist expansion areas or the failure to publish retail permits for industrial and activity zones.

Therefore, it can be concluded that the only case in which it can be proven that construction has begun on the basis of a building permit is for those who have obtained a contract, in addition to the fact that in some cases the beneficiary has obtained a contract but has not obtained a permit due to the industrial zones or activity zones not benefiting from the certificate of usability previously referred to in the article.28 of Decree 15/19, due to the non-completion of the development works, and therefore the legislator's intervention is required to redraft and adapt the text, in order to follow up and purify most of the requests submitted within the framework of Article 25 of Executive Decree 23/17.

2.2- Mechanisms for proving proportion20% advance payment for the implementation of the investment project

The article has been determined25 of Law 23/17 The scope of intervention of the provincial committees in the process of monitoring and purifying investment projects licensed with a concession, monitoring their implementation and deciding on requests related to their area of expertise, as Article 24 of the same decree required that the project be implemented under a building permit, and that the completion rate should not be less than 20%, as the decisions appointed by the provincial committees were based on this task for sub-committees that carry out field inspections, as they rely on a set of methods to calculate this percentage approved by the urban planning departments as well as the public equipment departments, including:

Proportional calculation method for items:

If the project is divided into items or paragraphs, such as (excavation), their total is calculated in the following manner:

$$\text{Progress Percentage} = \sum \left(\frac{\text{Item value}}{\text{Total project value}} \right) \times \text{Item Actual Completion Percentage}$$

Cost-per-count method:

$$\text{Percentage of work completion} = \frac{\text{Cost of work performed}}{\text{Original budget}}$$

This is the most used method, because the cost is the tool that is fully monitored in any project, in order to provide information related to the cost, so it is the most used.

The method of the percentage of time elapsed from the time allocated to perform the operation:

Divided by the total duration is used in administrative follow-up. That is:

$$\text{Completion Process Percentage} = \frac{\text{Time elapsed}}{\text{Time allocated according to planning}}$$

By adopting one of these methods, the percentage of completion is determined, and through follow-ups of the minutes of the state committees, we find that they show that the percentage of progress in most of these projects is very small and does not rise to the required percentage to settle their situations, which made them a source of dissatisfaction on the part of the owners of these projects, which prompted the governors to resort to study and expertise offices in order to remove the ambiguity and find a consensual solution to that. These committees concluded that most of the reasons for not starting the completion or the delay are due to the lack of an economic real estate authority directed towards investment by the institutions that were previously entrusted with the process.

Conclusion:

Through the research paper, we have concluded that the Algerian legislator, by granting the economic property intended for the establishment of investment projects, especially industrial ones, to the Algerian Agency for Investment Promotion, did not ignore the pending situations in light of the texts prior to the issuance of the investment and economic property laws belonging to the state's private property, as Article 24 of Law 23/17 on the establishment of provincial committees to be entrusted with the task of following up and purifying them, and then transferring their management to the Algerian Agency for Investment Promotion or canceling the decision to grant the concession and pumping the property into the digital platform to receive new information.

We also found that the text contains some shortcomings, as we find, for example, that whoever holds a decision from the governor granting the concession or a written license from him as well cannot obtain a building permit because the contract or the basis for requesting it is in accordance with the provisions of the executive decree. 15/19 sets the rules for preparing and delivering construction contracts, and thus does not allow them to enter the scope of these committees' jurisdiction. Also, some building permit holders were not able to start construction due to the lack of preparation and connection to various networks, in addition to the difficulty of proving the start of construction and reaching the specified percentage of 20% and the difference in methods of calculating it, which made most of the files rejected by them. Accordingly, we raise a set of recommendations, which are:

- Working on amending the article 24 of Law 23/17 enables holders of concession or written license decisions to obtain building permits, by first regularizing their status and enabling them to obtain concession contracts.
- Adopting a unified method to determine the percentage of completion.
- Working to expedite the preparation of economic real estate through the agency assigned this role.
- Expanding the committee to include those with experience in the field of expertise and evaluation.

List of references:

Legal Texts and Laws

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