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IN THE NAME OF COM MISSION N OF LAWS S CONSTI ITUTIONN NELLES, D OF THE LEGGISLATIO ON AND OF LTHE ADMIN ISTRATION N GENERALALE DE L IN REPUBL LIQUE, ON L THE PROJECT OF LAW

*relating to* **the evolution** *of* **housing ,** *digital* **amen** *t* (n° 84 6), **layout** *and*

P BY M. GU UILLAUMEE VILLE ETET
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See the numbers:

*National Assembly :* **846.**

**SUMMARY**

PAGES

LADIES AND GENTLEMEN,

This bill on the development of housing, planning and digital technology presented by the Government marks a turning point in the understanding of planning and cohesion policies in our territory.

Designed around four major national priorities: building more, better and cheaper, supporting the evolution of the social housing sector, meeting the needs of citizens and promoting social diversity, and, finally, improving the living environment, particularly in territories experiencing difficulties, this project reflects both a strong ambition and a new method.

It aims, in fact, to respond to one of the main expectations expressed by our fellow citizens of access to quality housing in an environment, whether urban, peri-urban or rural, allowing them to benefit from public services, shops and activities conducive to living together.

This request is all the more pressing as a feeling of downgrading, or even abandonment, manifests itself in certain areas or certain neighborhoods.

The concentration of economic activity and public services in large urban centers contributes to this, but the reasons for the changes taking place are undoubtedly more profound. These are the very tools for the cohesion of our territories that need to be rethought, while people, businesses and services have become more mobile and new needs in terms of accessibility, communication or travel have emerged. .

As such, the bill is based on a global approach to all the factors that can contribute to revitalizing our territories. Whether in terms of town planning, construction, access to social housing or private housing, renovation of the most weakened urban fabrics or local governance, the method chosen is that of simplification of procedures, effectiveness of the means implemented and reinforced consultation between the stakeholders concerned.

In this context, the Law Committee decided to seek advice on the provisions most directly falling within its field of competence, i.e. seven articles out of the sixty-five presented by the Government.

She was mainly interested in the creation of territorial revitalization operations (ORT) which should enable local elected officials in medium-sized towns, supported in their approach by State services and by public and private actors, to define territorial projects integrating all actions likely to participate effectively in the renovation of their city center and their attractiveness. This provision, which complements the national “City heart action” plan initiated in March 2018 by the Government, arouses real enthusiasm from all parties concerned who see it as an opportunity to put an end to the “loss of speed” of many medium-sized towns, which are nevertheless the driving force of many of our territories.

The Commission has also adopted provisions aimed at strengthening the fight against substandard housing and slumlords. According to the Abbé Pierre Foundation, nearly four million people are poorly housed in France and, on the one hand, efforts to renovate buildings and construct new housing have been driving our public housing policies for many years. , on the other hand, certain owners continue to benefit from a form of impunity while they maintain unsanitary and dangerous housing for rent, most often for people in very vulnerable situations.

By focusing on these two subjects, which contribute, each in their own way, to strengthening the cohesion of our territory, the Law Commission thus wished to support the Government's approach and participate fully in the development of policies which will guide the action of the majority in matter during this legislature.

**The position of the Law Commission**

The Commission gave a favorable opinion to:

– **Article 14** relating to overseas development plans, including the adoption procedure should be simplified by ordinance;

– **article 23** relating to the conditions of the right of visit and control of the administration in matters of town planning, subject to an alignment of the administrative fine imposed in the event of an obstacle offense with that provided for the same offense in environmental matters;

– **article 24** on the reform of litigation in town planning matters aimed at reducing delays and providing legal security for petitioners, subject to allowing associations agreeing to compromise to obtain reimbursement of the costs they have incurred in the framework for the preparation and conduct of the litigation procedure;

– **article 54** providing for the creation of ORTs, subject to the adoption of seven main amendments allowing:

• specify the conditions under which actors, and more particularly private actors, likely to provide support or take part in carrying out a territorial revitalization operation (ORT) can be signatories to its agreement;

• ensure parliamentarians are informed about the implementation and progress of ORTs carried out in their department;

• provide for reconversion or rehabilitation measures for industrial and commercial wastelands within the framework of the ORT;

• specify the conditions under which the right of pre-emption can be entrusted to a third party operator;

• submit the warehouses of
e-commerce;

• extend the possibility for the prefect to suspend, under certain conditions, the registration and examination of commercial installations on the territory of municipalities participating in an ORT or located near such an operation, to “drives” and e-commerce warehouses;

• improve planning for the development of the commercial offer in town planning documents.

– to **articles 56 to 58** relating to the fight against substandard housing, subject to a provision relating to the possibility for the Government to modify, by means of an ordinance, the conditions for the transfer of special policies from mayors to presidents of EPCI.

Furthermore, the Commission adopted **ten amendments relating to articles additional measures** aimed at:

– strengthen the information made available to the public on the national town planning portal by providing that projects for the development, modification or revision of town planning documents can be transmitted by communities for publication in such a way as to that the people concerned have a national tool presenting complete and reliable information. As a reminder, current law provides that only definitively adopted documents must be published;

– make it compulsory to carry out an impact study by an independent body prior to the authorization of a commercial equipment project with a surface area greater than 2000 m2 by the departmental commercial development commissions (CDAC) of so that they can have, to issue their opinion, an initial analysis taking into account all the criteria defined by law in this area, including in particular the preservation of urban centers;

– specify the conditions under which the center of studies and expertise for risks, mobility, environment and planning (CEREMA) can provide support to the State and territorial stakeholders in terms of engineering and of technical expertise by providing that the latter can mobilize the data produced by a network of territorial observatories which can rely on the intermunicipalities and the local actors concerned;

– allow, on an experimental basis, the national public establishment for the development and restructuring of commercial and artisanal spaces (EPARECA) to intervene, after agreement from the local authorities concerned, as project management for commercial urban projects carried out within the framework of an ORT;

– extend to situations of non-irremediable unsanitary conditions the possibility of expropriating owners who have not carried out the work prescribed by the prefect within the time limit and better regulate the amount of compensation paid;

– make mandatory the imposition of additional penalties of confiscation of the property of slumlords having been used to house vulnerable people in unworthy conditions and a ban on the acquisition of new real estate for a period of five years, unless there is a reasoned decision to the contrary by the judge ;

– guarantee that the judge verifies whether the successful bidder is not subject to a ban on acquiring real estate in the context of an auction by tender and complete the measures to control access for dealers sleep at auctions, including amicably;

– prohibit invoicing for the processing of the request for prior rental authorization applicable in areas, demarcated by the municipality or the competent EPCI, which have a significant proportion of degraded housing.

## GENERAL DISCUSSION

*At its meeting on Tuesday, May 15, 2018, the Commission examines for opinion the draft law on housing, development and digital developments (articles 14, 23, 24, 54, 56, 57 and 58 )*
*(Mr. Guillaume Vuilletet, draftsman) (No. 846).*

**Mr. Guillaume Vuilletet, draftsman.** Madam President, my dear colleagues, the bill on developments in housing, planning and digital technology holds a special place at the start of this legislature. It must in fact give new impetus to territorial cohesion policies and allow those involved in planning and housing to have the means to resolve some of the ills that we have known for too long. Without exhausting the list of these, I will cite: the difficulties of access to a social stock that is insufficiently renewed, despite the efforts of the majority of landlords and the communities concerned; the absence of a clear and stable policy in favor of the construction or renovation of housing, linked in particular to the multiplication of actors in the territories and a dilution of responsibilities; the maintenance of some of our fellow citizens in unacceptable situations of unsanitary or unworthy housing, and a certain form of impunity for those who take advantage of the weaknesses of our law in this area.

I believe it is useful to make a critical assessment of public action in this area because, beyond the intentions, the results have not always been there. Nearly 40 billion euros are spent each year on various housing policies and, yet, 4 million of our fellow citizens are poorly housed. Furthermore, those of us who exercise or have exercised a local mandate know the magic and the sweet pleasure of these procedural games which, after a considerable number of years, allow a project to succeed.

These observations are not new, but they worsen every day the feeling of downgrading, even abandonment, felt in some of our territories.

I therefore salute the work carried out by the Government over the last few months with a view to tabling this bill. During the hearings, all the people met, whether they belong to civil society, such as real estate or business professionals, or even social landlords, or to the public sector, such as magistrates and elected officials, spoke about 'a text going in the right direction, encouraging and enabling strong expectations to be met. It is also the result of an original approach that we initiated with the Senate. Let us also salute the work of President Larcher, who wanted, with Minister Jacques Mézard, a consensus conference, which made it possible to bring together a considerable number of actors and to bring out positions, opinions, information which, in quite diverse areas, were useful to the Government in the development of this bill. Let's keep in mind the construction of this project,

whose four titles demonstrate a progression of reflection on these different subjects.

In view of these issues, the Law Commission has therefore decided to seek an opinion. I thank you, my dear colleagues, and above all I thank our President.

We could have taken up other questions than those we are going to examine. Social housing, through the role it plays in regional planning and in view of the socio-economic issues to which it responds, obviously concerns the entire national representation. This text also concerns the ecological transition and town planning rules, which our colleagues in the Economic Affairs Committee will obviously have to deal with. This clearly shows the diversity and importance of the topics covered. In terms of town planning, housing and development, we need clearer rules, stable rules. This text, which required a lot of work, must therefore inspire us throughout the legislature.

Seven of the sixty-five articles of the bill are subject to our examination. They relate to overseas development plans, the adoption procedure for which should be simplified by ordinance, to town planning litigation which should be rationalized so that delays are reduced and to secure legally the petitioners without affecting the effective right to appeal, on territorial revitalization operations (ORT) in the city center and, finally, on the fight against substandard or unsanitary housing. I will concentrate on these last two subjects, my dear colleagues, because these are the ones on which we propose, with the majority group, to provide the most complements to the Government's project.

First of all, the territorial revitalization operations (ORT), which constitute in a way the legislative component of the national plan “City heart action” launched last March, will consist, based on a field diagnosis, of set up real regional projects aimed at renovating the city centers of 222 medium-sized towns. If they are not limited to these cities, these operations will therefore accompany the implementation of this government plan.

They also raise high expectations and several cities concerned are already mobilizing to be able to carry them out quickly after the adoption of the law.

These operations were introduced following a series of recent reports from the General Council for the Environment and Sustainable Development (CGEDD) and the General Inspectorate of Finance, as well as from Mr. Marcon, honorary president of the Federation of Chambers of Commerce and Industry. All of this work draws the same conclusions: while medium-sized towns, which represent 23% of the population and 26% of national employment, are the driving force behind most of our territories in that they ensure, in particular, access to

public services and economic and cultural activity, more and more of them are also losing their attractiveness. The factors are multiple: departure of the population towards the outskirts contributing to the deterioration of housing in the city center and the decline in economic activity, departure of certain public services, competition from e-commerce and supermarkets, unsuitable town planning .

To remedy this, it is no longer enough to carry out one-off and targeted actions. On the contrary, we must define a real territorial project based on local difficulties and engage in the long term all the actors wishing to participate in it.

In order to promote the success of these operations, in which we believe and which we fully support, we will propose to you to adopt, among other measures, amendments aimed at ensuring that project engineering, particularly in terms of commercial renovation, is reinforced in territories lacking dedicated services, whether at community or State level, by allowing the National Public Establishment for the Development and Restructuring of Commercial and Craft Spaces (EPARECA), specialized in this area, to intervene within the framework of an ORT. We will also offer to supervise the establishment of e-commerce *drives* and warehouses, which today compete directly with physical commerce, in the city center and on the outskirts. We will suggest that you take better account of the management of industrial and commercial wastelands which represent a growing problem for many of our territories and that we strengthen the commercial and artisanal planning tools provided for by the territorial coherence plans (SCOT) and local planning plans. urban planning (PLU). Finally, we wish to ensure that parliamentarians are informed about the ORTs carried out in their department. Furthermore, an impact study must be carried out prior to the examination of a request for a commercial installation by the Departmental Commercial Development Commissions (CDAC), because the filter that the latter are supposed to implement is currently today almost non-existent, which is detrimental to the activity of existing businesses, to urban and peri-urban landscapes often disfigured by too many installations and to the sustainable development approaches that we try to encourage.

I would like to remind you that our committee is closely following these subjects. Under the chairmanship of our colleague Arnaud Viala, we led, with the Committee on Sustainable Development and Regional Planning, a joint information mission, of which Jean-François Cesarini and I are the rapporteurs, aimed at promoting a new stage of decentralization, favorable to the development of territories. In this context, we interviewed a certain number of experts who told us, for example, that 82% of jobs created today were within metropolitan areas, which demonstrates a strong concentration of activity. .

I come to the other subject on which we have worked a lot: the fight against substandard housing and slumlords. We see a form of powerlessness on the part of public actors in the face of the behavior of certain owners. Either they refuse to comply with their maintenance obligations, or they take advantage of the vulnerability of people in precarious situations to extract exorbitant rents from them for housing that is housing in name only.

We therefore propose to make it compulsory, unless the judge decides otherwise with reasons, to impose additional sentences of confiscation of property used to commit the offense and a ban on acquiring new property for slumlords. Out of all the judgments handed down, there are currently too few convictions for dissuasive sentences.
We need to do real educational work with magistrates so that the situation evolves. We also wish to better regulate the amount of compensation that can be paid to such owners in the event of expropriation by public force. This is to avoid abusive enrichment which may have been observed in the past. Finally, we want to better control auction sales which constitute the preferred method of acquisition for unscrupulous lessors. This set of measures, which complement those proposed by the Government aimed at systematizing administrative penalties and reorganizing the special policies of the mayor and the prefect in this area, should make it possible to sanction slumlords effectively, by hitting them in the wallet.

This, my dear colleagues, is what the Laws Committee could contribute to this very dense text, which raises important issues on equality and cohesion between territories, and, through them, on the quality of life. of our fellow citizens, whether they live in cities, in disadvantaged neighborhoods or in rural areas. Thank you.

**Mr. Robin Reda.** The ELAN bill has a number of objectives. Its scope is broad, probably too broad, its articles are very diverse, probably also too wide.

In wanting to address all the subjects and resolve all the problems that arise on our territory, this text perhaps misses a certain number of its objectives. Before the substantive examination of the text in the Economic Affairs Committee, I will stick, on behalf of the Les Républicains group, to the articles before our Commission this morning and some of which are nevertheless going in the right direction, it must be emphasize. On a certain number of technical points, the left and the right, even if these notions, dear colleagues of the majority, seem a little hackneyed to you, have scrapped together; I am thinking of the fight against abusive recourses or the facilitation of the production of housing. The need to house our fellow citizens with dignity and suitability, to create new rental paths or access to property – is today the subject of a national consensus. However, this very broad text does not specify – our Commission could take up this problem – what is the role that communities must play

territorial in development projects, nor their role with regard to the right to recourse or the renovation of city centers. Many details would be needed, and the same goes for the fight against slumlords.

It seems complicated to me to approach this law in its entirety, without the Government having, at one time or another, delivered its vision, its ambition, its interpretation of decentralization. There is no housing competence in terms of development or construction without the involvement of local stakeholders and elected officials. However, a certain number of provisions of this bill demonstrate a movement of recentralization, even technocratization, which increasingly takes decisions away from citizens and therefore from local elected officials.

For the moment I will address the appeals in matters of town planning, the city centers and the fight against slumlords.

With regard to the regulation of the right to recourse, anything that can contribute to reducing abuses goes in the right direction. However, many points remain to be clarified. Thus, the recommendations made in her report by Ms Maugüé are not very precisely taken up by the bill, and we will have to deal together with the subject of environmental defense associations or which claim to be such. Above all, we must approach the subject in a pragmatic manner, far from fantasies, because, notwithstanding its impact on the life of a certain number of our territories, your report, Mr. Rapporteur, shows that the appeals only concern a tiny part building permits attacked. This applies even more to collective housing and social rental, although they are present in everyone's minds and in the pages of the regional daily press.

The subject of city centers demonstrates the ambitions of this bill – vibrant city centers but also the need to mobilize significant resources. For the moment, they have not been made available to local authorities. Of course, there is the “Action heart of the city” plan, the stated intentions and the billions announced, I hear all that, but it does not seem to me to be consistent with the reality on the ground. Local elected officials expect ambitious action, accompanied by long-term means, to redress the situation in city centers and, more broadly, in medium-sized towns and small suburban towns, including towns on the metropolitan outskirts, which do not seem to be a priority of the “City heart action” plan and yet which also deserve our full attention.

We will also not avoid a discussion on the establishment of businesses in the city center and on economic activity. We will not be able to rectify the situation if we are not driven by the desire to settle in city centers people exercising professions that are no longer found there, in particular food professions – this will also pose the question of training.

The fight against slumlords has been a common fight for a long time. We took it up with a certain number of political groups, but the majority had specifically referred the question to the examination of this bill. We therefore expect a lot from this discussion. Since the examination, in 2010, of a bill from my colleague Sébastien Huyghe which clearly posed the problem, we have made little progress. We will support initiatives going in the right direction, but I insist on the need to name things and create this slumlord crime. At this stage, the text does not provide for this, even if it deals with the consequences of this type of behavior and the risks to which those who engage in it are exposed.

The Les Républicains group is now waiting for the articles to be examined, while drawing your attention, dear colleagues, to the fact that in trying to do too much, the bill lacks certain details which would improve the lives of our fellow citizens. and the housing situation.

**Ms. Caroline Abadie.** This ELAN bill has four objectives. The first is to make it possible to build better, more and less expensively, in particular thanks to more effective action by professionals. This implies a relaxation of the regulations in force, as well as, at the judicial level, the limitation of abusive appeals, which are too frequent in this area, and, at the administrative level, the simplification and acceleration of procedures which can be particularly long – this was often told to us during the hearings. This is in particular the purpose of Articles 23 and 24, which our committee has asked for its opinion.

Another objective is layout. This text aims to improve everyone's living environment. This concerns to a large extent medium-sized towns, too often deserted or disfigured following poorly controlled real estate operations. This is of course the purpose of article 54, which defines the framework for territorial revitalization operations, which will be accompanied by the financial means and technical support provided for by the “City heart action” plan but also by a clear legal framework, which will last over time, contrary to what I have heard.

The fight against slumlords and substandard housing is another subject. The La République en Marche group will support the strengthening of the measures proposed by the bill in order to exert greater pressure against them, with amendments to articles 56, 57 and 58.

As has been recalled, this bill aims at other objectives, which it is not useful to detail, as our committee is not referred to it either in substance or for an opinion: on the one hand, reforming social housing and, on the other hand, improving the lives of tenants and meeting their varied needs by promoting mobility and social diversity – it is therefore a question of working on the adaptability of the real estate stock.

This bill is the result of collective work, with numerous upstream consultations, particularly online, and this consensus conference at

Senate. Now, it is up to us, parliamentarians, to enrich it. Town planning is a very complex subject, it is the subject of the longest and most tedious procedures in our law. It is therefore a priority to enable, through this bill, public and private actors to move forward more quickly.

**Ms. Isabelle Florennes.** My dear colleagues, on behalf of the Democratic Movement and related group, I want to underline the quality and richness of the hearings conducted by our rapporteur.

The Government, as my colleague Caroline Abadie said, has taken up this housing issue since last fall, based on broad consultation. What emerged was a new approach, which is mainly based on three pillars: building more, better and cheaper; meet everyone's needs; uplift.

As for the articles that concern us today, the Democratic Movement and Related Group would particularly like to welcome two major advances. The first, introduced in article 54, will allow the revitalization of city centers and town centers, a major territorial problem, by transforming operations for the requalification of old degraded neighborhoods (ORQAD) into operations for the revitalization of territories (ORT) . It is about re-establishing a certain territorial balance and supporting communities which we know are struggling ardently to succeed in bringing life back to these often neglected spaces.

The second concerns substandard housing and is the subject of articles 56, 57 and 58. While France has, according to figures from the Abbé Pierre Foundation, 4 million people who are poorly housed and 12.1 million people made vulnerable by In relation to housing, we can only welcome the initiative taken by the Government to fight against slumlords and thus enable intermunicipalities to combat substandard housing even more effectively. In this regard, the Democratic Movement and Related group will present an amendment to the Economic Affairs Committee aimed at introducing a more precise definition of the notion of slumlord, in order to better target the realities it covers. Furthermore, our group, Mr. Rapporteur, will vote in favor of the amendments that you have tabled.

This text, because it is constructed in coherence with the needs of the French population and because it demonstrates a certain desire to bring more cohesion between the territories, can truly stimulate a new dynamic. This is what our territories, our communities and our cities need, but it is also what the millions of French people who still suffer from poor housing expect. Many issues of course deserve debate and certainly adjustments. Our group will make its contribution, but this text has the merit of opening the debate and bringing to the discussion solutions that have been ignored for too long.

**Mr. Guillaume Vuilletet, draftsman.** I thank Ms Florennes for her conclusion. Indeed, it is necessary to consider overall coherence, because the housing problem cannot be treated in isolation. One of the faults of previous housing policies – very generous, if we stick to their principles – is that they approached it independently of other parameters. If improvements take place in terms of urban renewal, from a territorial planning perspective, and in particular city centers, we must embrace all the difficulties encountered on the ground.

Of course, this resulted in a voluminous text, but all the players agreed: it was necessary to change the general economy of the system and stabilize it. Yes, this represents important legislative work, welcomed elsewhere, and we undoubtedly need to continue to improve it, but this set of measures is necessary to allow coherence of the policies undertaken.

I would like to point out that communities are not absent from this text, dear colleague Reda. See these famous “major town planning operations” in Title I : these are operations of national interest (OIN) into which we are reintroducing communities. We want a massive tool for intervention in the territory, with communities and not without them. Furthermore, article 54 is devoted to communities.

*The Commission comes to the examination of the articles before it to notice.*

## EXAMINATION OF THE ARTICLES OF THE BILL

### TITLE IER
### BUILD MORE, BETTER AND CHEAPER

CHAPTER IV
### Simplify and improve town planning procedures

*Article 14*

### Authorization to clarify the provisions relating to regional development plans

**Summary of the device and main effects:**

This article authorizes the Government to proceed, by way of ordinance, with an update and clarification of the provisions of the general code of local authorities (CGCT) relating to the regional development plans (SAR) of the overseas regions. in order to specify their content as well as their revision methods.

Articles L. 4433-7 to L. 4433-24-4 of the CGCT grant the regional councils of Guadeloupe, Guyana, Martinique, Mayotte and Réunion specific powers in matters of planning and land use.

They must, as such, adopt a regional development plan (SAR) which sets the main guidelines in terms of development, development of the territory and protection of the environment. The SAR also serves as a sea development plan (SMVM), an ecological coherence plan (SRCE) and a regional climate, air and energy plan (SRCAE).

Local town planning plans, municipal maps or documents in lieu thereof must be compatible with this plan.

If all the territories concerned have adopted a SAR, with the exception of Mayotte due to problems specific to it in terms of planning and engineering capacity (1), it nevertheless appears that the " corpus *of disparate, but juxtaposed rules "* which governs the conditions

*(1) According to the impact study associated with this bill, a procedure for revising the land use and sustainable development plan adopted in 2009 by this territory with a view to its transformation into a SAR was initiated in 2011.*

adoption or revision of these schemes, and which results from successive legislative and regulatory developments, results in " *a difficult intelligibility of the regime* [legal which is] *applicable* to them ." [(1)]

So :

– difficulties in interpreting the law in force are a source of slowing down and weakening of the procedures in force;

– certain procedural modalities are unsuitable, such as the obligation to resort to a Council of State decree to make modifications, even when they do not affect the general scheme of the scheme concerned.

Faced with this observation, this article empowers the Government to take by way of ordinance, within twelve months following the publication of this law, any measure aimed at updating, clarifying, simplifying and supplementing the legal regime of SAR by :

– improving the wording and intelligibility of the rules in force;

– the deletion of obsolete provisions;

– the redefinition of its effects, in particular in that it takes the place of SMVM, SRCE and SRCAE;

– adaptation of the list of standards and documents with which the SAR must be compatible or which it must take into account;

– the simplification of certain procedural arrangements relating to its development and evolution.

These provisions must be the subject of a ratification bill within three months of their publication. They are all the more awaited by local elected officials as the issues of land use planning and the protection of fragile ecosystems are significant for overseas communities.

A Council of State decree must also accompany this reform in order to adapt certain regulatory provisions, particularly in terms of construction rules, to the needs of these territories.

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*(1) According to the opinion of the Council of State on Decree No. 2016-931 of July 16, 2016 approving the regional development plan for Guyana, cited by the aforementioned impact study. For the record, the procedure leading to the adoption of this decree was initiated in 2003.*

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*The Commission issues a **favorable opinion** on the adoption of Article 14 **without modification.***

CHAPTER V

## Simplifying the act of building

*Article 23*

(art. L. 461-1, L. 461-2, L. 461-3 and L. 461-4 [new], L. 462-2, L. 480-12, L. 480-17 [ new] of the town planning code, articles L. 151-1 and L. 151-2 and 151-3 [new], L. 152-4, L. 152-10 and L. 152-13 [new] of the construction and housing code)

### Adaptation of visiting rights to constitutional and conventional requirements

**Summary of the device and main effects:**

The purpose of this article is to precisely define the conditions under which:

– administrative control operations for construction, development and works projects;

– research operations and detection of infringements of the rules in force, where applicable.

It also strengthens the sanctions applicable in the event of an obstacle to this right of access by the administration.

**Latest legislative changes made:**

The provisions in force regarding visiting rights come from Ordinance No. 45-2542 of October 27, 1945 relating to building permits, modified in particular by Ordinance No. 2005-1527 of December 8, 2005 relating to building permits. building and planning permissions.

**Contribution from the Commission:**

At the initiative of the rapporteur, the Law Committee adopted a provision tending to align the amount of the administrative fine that can be imposed in the event of an obstacle to the administration's right of access to that provided for by the Code of environment for the same offense.

**I. THE STATE OF LAW**

**1. The administration's right to visit and communicate**

***has. A system for monitoring compliance with regulations regarding construction and town planning***

Article L. 461-1 of the town planning code (CU) provides[(1)] a specific right to visit constructions in progress and up to three years after their completion, by:

– the authorities competent to issue building permits, i.e. the prefect, the mayor or the president of a public intermunicipal cooperation establishment (EPCI) in the case of a delegation of competence, as well as their delegates;

– civil servants and state agents sworn and commissioned to this end.

Civil servants and agents of local authorities can also exercise this right, in accordance with consistent case law of the Court of Cassation (2).

In this context, verifications deemed useful may be carried out to ensure compliance with the rules applicable to construction and town planning. The agents concerned can obtain communication of technical documents relating to the construction of the buildings.

This right of visit is exercised for all constructions, even when they constitute a home (3).

Furthermore, if it is not a coercive procedure in itself, as the Court of Cassation has repeatedly recalled, the persons concerned cannot oppose it, unless they incur a sanction of up to a fine of 3,750 euros and one month's imprisonment in accordance with article L. 480-12.

According to the impact study, 512 control operations were carried out as part of this procedure in 2015 out of 14,483 new housing operations recorded for that same year, or 3.5% of controlled operations. Of these, 80% were declared non-compliant.

If " *this high rate of non-compliance must however be put into perspective, because an operation is judged non-compliant as soon as non-compliance is noted, without consideration of its seriousness* ", the fact remains that these results

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*(1) Similar provisions are also provided for in the Construction and Housing Code (CCH).*

*(2) Notably Cass. crim., October 19, 2004, no. 04-82.620 and Cass. crim., January 17, 2017, no. 16-82.400.*

*(3) Or that they present the characteristics specific to a building capable of being inhabited, within the meaning of the case law of the Court of Cassation (for example, Cass.crim.,* April *1 , 1992, n° 91-85.279).*

demonstrate the importance of carrying out regular inspections in construction, or even strengthening them.

Cases of obstacles to access rights are, for their part, relatively rare since they would concern on average 2% of the control operations carried out.

***b. The need to legally secure administrative controls***

If the Court of Cassation has repeatedly refused to address to the Constitutional Council priority questions of constitutionality (QPC) based on a lack of sufficient guarantees attached to the exercise of the right of access, considering this procedure compliant with the principle of inviolability from the home due to the absence of constraint on the persons concerned (1), she however agreed to refer to the Council a QPC relating to the conformity of the sanction provided for in the event of an offense of obstacle to the right of access of the administration provided for by the aforementioned article L. 480-12.

In its decision no. 2015-464 of April 9, 2015, the Constitutional Council thus considered " that *given the specific and limited nature of the right of access, this incrimination is not likely to undermine the inviolability of the domicile "* and, therefore, that this article was in conformity with the Constitution.

The Council also specified that " however, *the inviolability of the home is protected by the provisions of the penal code. Thus, trespassing by a person holding public authority or charged with a public service mission is an offense provided for and punishable by article 432-8 of the penal code.* ***It follows from these provisions that public officials cannot enter another person's property without their consent.*** *This principle applies in all situations, including in the context of the right of access provided for in article L. 461-1 of the town planning code.* ***State agents authorized to carry out visits under the provisions of the town planning code cannot therefore*** (2) ***coerce an occupant to accept the visit. »***

In view of this decision and the contentious appeals in the matter, the Government wished to prevent any difficulty in implementing administrative controls in order to legally secure the procedures for the agents concerned. It is also a matter of better guaranteeing their compliance with article 2 of the Declaration of the Rights of Man and of the Citizen of 1789, which defines the right to property as a natural and imprescriptible human right, and to Article 8 of the European Convention on Human Rights which recalls the right of everyone to respect for their private and family life, as well as their home and their correspondence.

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*(1) Notably, Cass. crim, June 12, 2012, no. 12-90.024 and Cass. crim., January 7, 2014, no. 13-90.029.*

*(2) Commentary on the aforementioned decision.*

To this end, this article proposes to clarify the wording of the provisions provided for by the town planning code and the construction and housing code in this area.

## II. THE PROPOSED PROVISIONS

### 1. Supervision of the administrative control procedure

#### *has. A clarification of the general rules for exercising visiting rights*

The list of authorities competent to exercise the right of access is specified so as to cover, in addition to the prefect, the mayor or the president of the EPCI, the civil servants and agents mentioned in article L. 480-1 of the code of town planning, i.e. " all *officers or agents of the judicial police as well as all civil servants and agents of the State and public authorities commissioned for this purpose by the mayor or the minister responsible for town planning according to the authority to which they report and sworn. »*

This clarification thus draws the consequences of the jurisprudence of the Court of Cassation by explicitly targeting, in addition to those reporting to the State, civil servants and agents of local authorities **(paragraphs 5 and** 42).

Furthermore, the period during which the right of access can be exercised is extended from **three years to six years** after the completion of the work, so as to make it correspond to the limitation period for public action in matters of crime (1 ) **(paragraphs 6 and** 43).

#### *b. Reinforced guarantees for those concerned*

New provisions are introduced so as to better regulate the conditions for exercising visiting rights when this is not motivated by the investigation of an offense, such as, for example, in the case of compulsory inspection imposing it is up to the administration to verify *in situ* compliance with the authorization issued (for example, in the case of an establishment open to the public).

These provisions incorporate the rules set out in terms of administrative control in other legislative areas, with a view to guaranteeing the protection of the home.

A new article L. 461-2 inserted into the town planning code thus provides that these controls can only be carried out between 8 a.m. and 8 p.m. and, outside this time slot, only when the places concerned are open to audience.

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*(1) As a reminder, this period, provided for by Article 8 of the Code of Criminal Procedure, was extended to six years by the Law No. 2017-242 of February 27, 2017 reforming the limitation period in criminal matters.*

It is also explicitly provided that homes and premises containing parts intended for residential use can only be visited in the **presence of the occupant and with their consent (paragraphs 8 and** 9) (1).

The conditions of intervention of the judge are, for their part, specified by a new article L. 461-3 **(paragraphs 10 to 28)**[2] :

– in the event that access to a home is refused or the person who can authorize it cannot be reached, the visit may be authorized by an order from the judge of freedoms and detention of the high court in the jurisdiction where the places or premises to be visited are located;

– this order is notified during the visit to the occupant of the premises or, in his absence, after the visit, by registered letter. The act of notification includes mention of the avenues and deadlines for appeal (3), as well as the possibility of submitting a request to the judge who authorized the visit to suspend or stop this visit;

– the visit is carried out under the control of the judge who can, at any time, decide on its suspension or termination;

– a report detailing the terms and progress of the operation and recording the findings made is drawn up immediately by the agents and sent to the judge who authorized it.

Finally, in the case of work carried out without a permit or without a decision of non-opposition to prior declaration, or in disregard of these decisions, a new article L. 461-4 provides that the competent authority in matters of control may issue formal notice the project owner to submit, within a period which cannot exceed six months, a permit application or a prior declaration **(paragraph** 29).

This provision should therefore make it possible to encourage the administrative regularization of constructions or, in the case of refusal by the project owner, to report this offense to the public prosecutor (4).

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*(1) These provisions are introduced in paragraphs 45 and 46 in a new article L. 151-2 of the CCH.*

*(2) These provisions are introduced in paragraphs 47 to 65 in a new article L. 151-3 of the CCH.*

*(3) The order authorizing the visit may be the subject of an appeal before the first president of the court of appeal, then, if necessary, in cassation, in accordance with the rules provided for by the code of civil procedure.*

*(4) In accordance with Article 40 of the Code of Criminal Procedure, " any* constituted authority, any public officer or civil servant who, in the exercise of his functions, acquires knowledge of a crime or an offense is required to give notice without delay to the public prosecutor and transmit to this magistrate all information, minutes and acts relating thereto. »

**2. Adaptation of the criminal provisions in force**

The provisions of article L. 480-12 are also amended so as to provide for the doubling of the administrative fine applicable in the event of the offense of obstructing access rights (the latter is thus increased to 7,500 euros) and the increase from one to six months in the prison sentence that can be imposed **(paragraph** 34).

As such, the Law Committee proposed, at the initiative of your rapporteur, to increase the amount of the fine payable to 15,000 euros, i.e. to an amount identical to that provided for by the environmental code for the same offense.

A new article L. 480-17 specifies, for its part, that officials and agents responsible for investigating and reporting violations of town planning rules wherever they are committed are required to inform the prosecutor of the Republic before accessing professional establishments and premises. The latter may, if necessary, object.

It is also provided, like the exercise of visiting rights, that their checks can only take place between 8 a.m. and 8 p.m., or, outside these hours, when the premises are open to the public.

When the inspection concerns a home or premises containing parts intended for residential use, these visits can only be carried out with the consent of the occupant or, failing that, in the presence of a judicial police officer acting in accordance with the provisions of the Code of Criminal Procedure relating to home visits, searches and seizures of evidence **(paragraphs 36 to** 38).

For the sake of clarification, it is also planned to delete the reference to article L. 480-12 of the town planning code within the construction and housing code, in favor of the introduction in the latter code of sanction provisions identical to those provided for in this article **(paragraphs 68 to** 73).

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*The Commission examined the rapporteur's amendment CL44.*

**Mr. Guillaume Vuilletet, draftsman.** The purpose of this amendment is to align sanctions in the event of an obstacle to the administration's right of visit, whether in matters of town planning or the environment. In fact, it is the same offense, and we should harmonize the scale of applicable penalties.

As a reminder, this offense is currently punishable, in environmental matters, by a fine of 15,000 euros and six months in prison, while

that in matters of town planning, the sanctions are a fine of 3,750 euros and one month in prison, which the bill increases respectively to 7,500 euros and six months of imprisonment. Let's follow the logic and align the fine amounts to 15,000 euros, especially since prison sentences are extremely rare in this area.

*The Commission **adopted** the amendment.*

*Then it gives a **favorable opinion** on the adoption of amended article 23 .*

CHAPTER VI

**Improve the handling of town planning disputes**

*Article 24*

(art. L. 442-14, L. 480-13, L. 600-1-2, L. 600-3, L. 600-5, L. 600-5-1, L. 600-5 -2 [new], L. 600-6, L. 600-7, L. 600-8, L. 600-12, L. 600-12-1 [new] and L. 600-13 of the code of urban planning)

**Secure existing building permits**

**Summary of the device and main effects:**

The purpose of this article is to improve the handling of town planning disputes by reducing judgment times, combating abusive appeals and securing the right to build.

It is inspired by the recommendations of the report “Proposals for faster and more efficient planning authorization litigation” by Ms. Christine Maugüé, submitted in January 2018 to Mr. Jacques Mézard, Minister of Territorial Cohesion.

**Latest legislative changes made:**

The conditions for appeal against town planning decisions have been significantly revised by Ordinance No. 2013-638 of July 18, 2013 relating to town planning litigation, taken following the report “Construction and right to appeal : for a better balance” by Mr. Daniel Labetoulle from April 2013 (1).

**Contribution from the Commission:**

At the initiative of the rapporteur, the Law Committee adopted a provision aimed at allowing associations agreeing to compromise to obtain reimbursement of the costs they incurred in the context of the preparation and conduct of the contentious procedure.

*(1) The authorization of the Government to adopt measures of a legislative nature to accelerate construction projects had, for its part, been granted by Law No. 2013-569 of* July *1 , 2013 authorizing the Government to adopt legislative measures to accelerate construction projects*

## I. THE NEED TO IMPROVE THE PROCESSING OF LITIGATION OF URBAN PLANNING

Litigation in matters of town planning has been the subject of several reforms over the last decades in order to provide a better legal framework for (1) those faced with proceedings before the judge and to provide security for petitioners increasing the cost of operations in the event of an appeal. , or even the impossibility of carrying them out.

Several reports inspired these reforms, including:

– the report “Urban planning: for a more effective law” of the Council of State of January 1992, the recommendations of which were partly taken up in the law of February 9, 1994 known as the “Besson law” (2), in particular in to more strictly regulate appeals for formal or procedural defects affecting a land use plan and provide for the obligation for judges to rule on all means likely to justify an annulment, in order to avoid the multiplication of appeals under the same operation;

– the report “Proposals for better legal certainty of planning authorizations” by Mr. Philippe Pelletier from January 2005 which led to the inclusion in law of the possibility for the judge to pronounce the partial cancellation of an authorization town planning;

– the aforementioned report by Mr. Daniel Labetoulle, taken up in particular by the order of July 18, 2013 and by the law of August 6, 2015 known as the “Macron law” (3), with a view to clarifying the rules governing the interest in taking action, to give more flexibility to the judge to decide on the follow-up to be given to appeals for annulment (for example, by allowing the regularization of a planning decision during proceedings) and to regulate abusive appeals.

However, as highlighted in the recent report by Ms. Christine Maugüé, certain problems that previous reforms attempted to resolve remain: “ appeals *delay or even make operations impossible; these appeals have an impact on the cost of construction. The origin of these difficulties is largely due to the method of carrying out the operations, through sales in the future state of completion – the use of bank financing and the marketing of housing before their completion do not go well together. of a risk of litigation, both bankers and notaries waiting for the permit to be final before financing the construction and passing the deeds allowing the sale of real estate for residential use. Although, in law, appeals are not suspensive, in practice they have such an effect. Measures designed precisely to reassure manufacturers in order to make litigation less*

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*(1) Or people who have requested a building or works authorization.*

*(2) Law No. 94-112 of February 9, 1994 relating to various provisions relating to town planning and construction.*

*(3) Law No. 2015-990 of August 6, 2015 for growth, activity and equal economic opportunities.*

*penalizing for the completion of projects – first and foremost the refocusing of demolition action, the effect of which was perceived as paralyzing for builders – had a negligible effect. »*

Judgment delays also continue to weaken operations awaiting a final decision, since they are on average 23 months in first instance, 16 to 18 months on appeal and 14 months in cassation.

Consequently, if the appeals only concern 1.2% to 1.6% of permits, " the *perception of reality by economic actors, developers, builders and project leaders, is always that* ***the drifts town planning disputes are a worrying subject and a hindering factor for the production of housing. »***

Faced with this observation, four areas for improvement of the law in force were identified by the report by Ms. Christine Maugüé, whose recommendations are largely taken up in this article, namely:

**– the reduction of time limits for judging** appeals against town planning decisions, in particular by limiting the time of the possibility of resorting to summary suspension;

– **the consolidation of existing authorizations** in the event of illegality of a planning document for reasons unrelated to the rules on which these authorizations were based;

– **increasing the legal stability of completed constructions** and revising the conditions under which demolition operations can be decided following a prefectural referral;

– **improving the sanctioning of abusive appeals** by making the measures sanctioning such practices more effective and by further regulating the financial transactions that can be concluded with a view to the withdrawal of applicants.

## II. THE PROPOSED PROVISIONS

### 1. Better regulate the right to recourse

#### *has. Clarifications regarding the interest of individuals to act*

Clarifications are provided on **the assessment of the applicants' interest in taking action** in article L. 600-1-2 of the town planning code, in accordance with the recommendations of the aforementioned report.

A private person is currently only eligible to lodge an appeal for abuse of power against a permit if the construction, development or work authorized is likely to affect him directly.

However, the notion of “works” is insufficiently precise in that it can lead to include site works “ while *in reality the text* [in its current wording] *tends to understand the achievements authorized by the project which do not are not truly constructions or developments. »* (1)

Consequently, it is proposed to refer to the “ authorized *project ”* in order to explicitly exclude nuisances linked to the conduct of a construction site **(paragraph** 7).

In order to cover all decisions that may be the subject of an appeal, it is also specified that the latter may relate to any “ decision *relating to the occupation or use of land ”* **(paragraph** 6).

As the aforementioned report underlines, “ such *a set includes (…) decisions relating to the building permit, the prior declaration, the demolition or development permit. »*

The impact study of this article indicates, moreover, that a decree will specify the documents to be produced by the applicant in support of his request to demonstrate his interest in taking action.

***b. The time limitation of recourse to summary suspension***

In accordance with current law, public or private persons may combine their appeal against a project with a request for suspension, particularly when work begins although the appeal on the merits has not been definitively judged. This referral may then occur late in the procedure.

In this context, this article provides that:

– an appeal relating to a prior declaration or a permit cannot be accompanied by a request for interim suspension beyond the time limit set for the crystallization of the arguments raised before the judge seized at first instance **(paragraph** 11). This period, which will be specified by decree, should be two months after communication to the parties of the first defense;

– the emergency condition is presumed to be met in terms of planning permission **(paragraph 12)** (2).

This framework could result in:

– to encourage the applicants to make – as a precautionary measure – a request for suspension, which will further mobilize the judges of the summary proceedings, but will make it possible to avoid late appeals;

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*(1) Report by Ms. Christine Maugüé cited above.*

*(2) In accordance with the case law of the Council of State (CE, July 27, 2001, Municipality of Meudon).*

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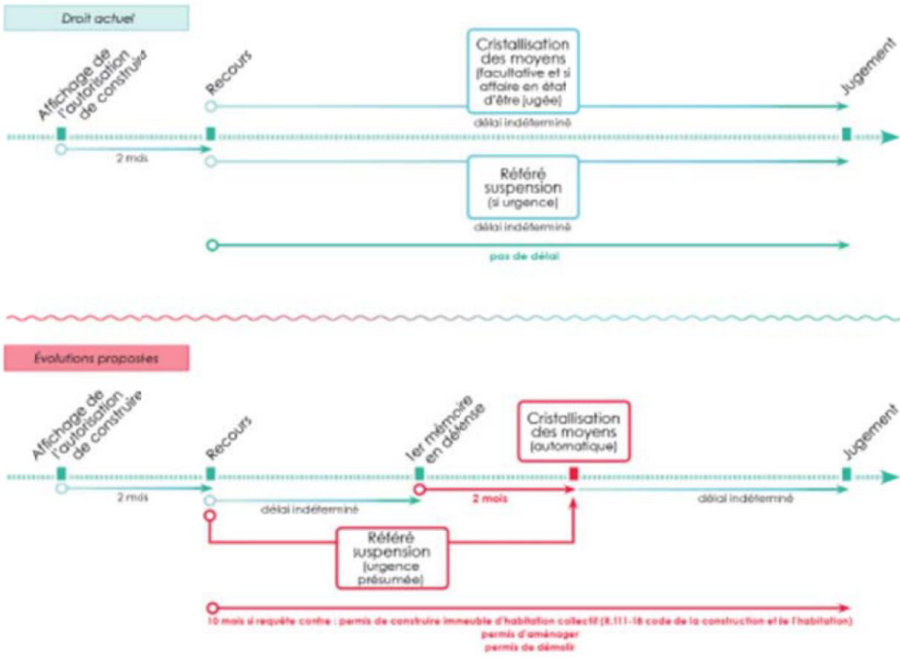


*Source : impact study t of this ar article.*

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courts on the need to judge these appeals within reasonable time limits, particularly for operations involving collective housing. The reduction of these deadlines does not, however, depend only on the judge but also on the responsiveness of the defendant administrations in transmitting the documents necessary for the investigation. It is therefore appropriate to encourage all parties to work towards reducing judgment times.

Furthermore, following the opinion of the Council of State on this article (1), the measure initially planned by the Government according to which the applicant is deemed to have withdrawn, in the absence of confirmation of his continuation, at the following the rejection for lack of serious means of its request for suspension, was separated from this bill. Indeed, an identical measure, of a more general scope, is provided for in the justice programming bill for the years 2018 to 2022.

***vs. Improving the effectiveness of sanctions against abusive recourse***

Following the aforementioned report by Mr. Daniel Labetoulle, two legislative measures aimed specifically at responding to the recurring problem of abusive appeals were introduced, which this article proposes to strengthen.

*ÿ Action for damages in the event of abusive recourse*

The first measure, provided for by article L. 600-7, opens, in addition to civil action, an action for damages for the beneficiary of the decision against which an abusive appeal has been filed.

Such an appeal is defined as having been " implemented *under conditions which* ***exceed the defense of the legitimate interests of the applicant*** *and which cause* ***excessive harm to the beneficiary of the permit ".***

However, this procedure did not have the expected effects, as noted by Ms. Christine Maugüé who underlines in her report that " the *counterclaims for damages presented before the administrative courts were almost all rejected. To date, only three administrative court judgments have applied it positively, only one of which for a slightly significant amount. »*

To remedy this observation, it is therefore proposed to:

– remove the notion of excessive prejudice, which is difficult to assess by judges;

– refer to the notion of " abusive *behavior on the part of the applicant "* instead of an assessment of the excessive nature or not of the defense of his

*(1) Opinion No. 394435 of March 29, 2018 from the Council of State on this bill.*

legitimate interests, which has proven to be ineffective in characterizing an abusive recourse **(paragraph** 22).

Coordination is also planned for associations approved for environmental protection, which benefit, under the state of law, from a presumption of loyalty. It is thus provided that they are presumed " not *to adopt abusive behavior "* **(paragraph** 24).

ÿ *Supervision of the use of the transaction with a view to the withdrawal of the applicants*

The second measure, provided for by article L. 600-8, requires recording the transactions concluded in return for the applicant's withdrawal, under penalty of opening the possibility of an action for recovery of the sums paid up to five years after the withdrawal. last payment.

This article proposes to further regulate these procedures by:

– extending the scope of the registration obligation to transactions concluded with people intending to request an annulment from the judge, and no longer only with those who have actually filed an appeal.
As Ms Maugüé's report underlines, " such *a constraint can have a deterrent effect on the few applicants who exchange withdrawals for remuneration "* **(paragraphs 26 and 27) ;**

– prohibiting financial transactions in exchange for withdrawal for the benefit of associations, except when they act to defend their own material interests. It is thus a question of " dissuading *associations created for the benefit of private interests from bargaining for their withdrawal "* **(paragraph 29)** (1).

As such, the Commission, at the initiative of your rapporteur, proposed to clarify that this prohibition does not relate to the reimbursement of costs incurred in the context of the preparation or progress of the litigation action.

Indeed, if the amounts can be low - often a few thousand euros - the ban on their payment ~~by~~ the petitioner could constitute an obstacle to the transaction, even though in most cases, this procedure makes it possible to find amicable solutions beneficial to all parties.

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*(1) Impact study annexed to the bill.*

**2. Secure existing building permits**

***has. The consequences of the illegality of an urban planning document on the permissions granted***

The law in force already regulates appeals based on procedural or formal defects in town planning matters.

Article L. 600-1 introduced by the aforementioned law of February 9, 1994 thus limits the possibility for an applicant to invoke before the administrative courts the illegality of a territorial coherence plan, a municipal map or an urban planning document taking the place of these reasons for a period of six months after they take effect.

This limitation of the right of appeal was judged to be consistent with the Constitution on the grounds that it only applied to " *certain acts relating solely to town planning law* ", that it had been " *justified by the legislator having regard to to the multiplicity of challenges to the external legality of these acts* " and that the latter had thus " *intended to take into account the resulting risk of legal instability, which is particularly marked in matters of town planning, with regard to decisions taken on the basis of these acts ”* (1).

This article, following the recommendations of Ms. Maugüé's report, is part of the pursuit of this same objective by limiting, under certain conditions, the effects of the cancellation of an urban planning document on the authorizations granted.

To this end, a new article L. 600-12-1 provides that the cancellation or declaration of illegality of an urban planning document has no impact on previous decisions favorable to the realization of a project as long as they are based on “ a *reason foreign to the applicable town planning rules* [audit] *project. »* **(paragraph 32)**

This provision thus makes it possible to maintain the town planning rules which prevailed at the time of the authorization decision, rather than applying the previous town planning document which may include outdated or unsuitable provisions, as currently provided for in Article L. 600-12 **(paragraph** 30).

By coordination, a provision pursuing the same object is also provided for in terms of planning permission **(paragraph** 2).

***b. Securing granted authorizations***

Two provisions provided for in the town planning code currently allow the petitioner, once the court has been contacted, to regularize his situation, under the aegis of the judge.

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*(1) Decision No. 93-335 DC of January 21, 1994 of the Constitutional Council.*

The first, provided for by article L. 600-5, allows the judge, when he finds that a defect affecting only part of the project can be regularized by a modifying permit, to proceed with a partial cancellation and to set, where applicable, a deadline for the permit holder to request regularization.

The second, provided for by article L. 600-5-1, also offers the possibility for the judge to postpone ruling until the expiration of a deadline that he sets for the regularization of the permit. Following obtaining a modification permit, the judge rules after inviting the parties to present their observations.

As Ms. Maugüé's report underlines, this last provision " marks *a change in dimension in the use that the town planning judge, judge of excess of power, can make of the techniques for regularizing building permits: it allows the judge to give* ***an additional chance to the petitioner to carry out his project without any contentious cancellation,*** *in particular when the latter has not thought of the solution of the modifying permit to regularize it during the proceedings or when this petitioner has estimated in advance, wrongly, that no means of applicant did not threaten his project. »*

These provisions are reinforced by this article so as to: – extend their

application to decisions of non-opposition to prior declaration;

(1) – allow regularization even after completion of the work;

– provide that the refusal of the judge to grant a request for annulment partial is justified **(paragraphs 14 and** 16).

These provisions aim to ensure that the regularization of permits contested is effectively sought when conditions permit.

In order to limit the possibility of multiplying disputes, it is also provided, in a new article L. 600-5-2, that modifying decisions or regularization measures can only be contested within the framework of the proceedings on the initial authorization **(paragraph** 18). The objective is to avoid "cascading" appeals, in accordance with the case law of the Council of State (2), and to provide security for petitioners who comply with the judge's request for regularization.

Finally, article L. 600-13, relating to the lapse of requests under certain conditions, criticized for its ineffectiveness by the Maugüé report (3), is rewritten so as to now specify that the provisions relating to litigation of

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*(1) This faculty was admitted by the Council of State in its decision of February 22, 2017, Ms. Bonhomme and others.*

*(2) In particular, Council of State, June 19, 2017, Union of co-owners of the Butte Stendhal residence and others.*

*(3) According to which: " the* working group also proposed to repeal article L. 600-13 of the town planning code, resulting from law no. 2017-86 of January 27, 2017 relating to equality and citizenship, relating to the lapsing of requests which has been fairly unanimously criticized for its difficult to read (what is the lapsing of a request?) and impractical nature. »

town planning apply to all building permits which take the place of authorization under other legislation **(paragraph** 35).

**3. Facilitate the demolition of certain illegal constructions**

The possibility for the prefect provided for by article L. 600-6 to initiate action with a view to the demolition of a construction whose building permit has been canceled by the administrative court, following a referral by a prefectural referral and for a reason not subject to regularization, is limited, by reference to article L. 480-13, to cases where the work is located in a protected area for heritage or landscape reasons.

In accordance with the recommendations of Mr. Daniel Labetoulle's report, the aim was to " facilitate *construction operations by limiting the risk* (1) *of demolition. »*

However, this article proposes to remove this location condition only for cancellation decisions following a prefectural referral by specifying article L. 600-6 to this effect.

Indeed, the referral, which is only used when there is serious doubt about the legality of the act, mainly concerns sensitive operations which require dissuasive means of action.

This involves better combating openly illegal construction and " limiting *the abuses induced by the disappearance of the risk of demolition, such as building in areas that are clearly unbuildable but do not fall under* (2) *the list of protected spaces "* **(paragraphs 3 and** 20).

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*The Commission has before it amendment CL2 from Mr Jean-Carles Grelier.*

**Mr. Robin Reda.** This amendment aims to delete the provisions according to which the cancellation of a planning document by the judge could have no effect for an authorization granted since the cause of the cancellation does not concern the planning rules themselves. same. This appears to us to constitute a real attack on the right to appeal to the extent that the cancellation of a territorial coherence plan (SCOT) or a local urban planning plan (PLU) for reasons of form or procedure could not be not have any effect on the acts taken pursuant to these two documents.

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*(1) Impact study of this article annexed to the bill.*

*(2) Idem.*

By wanting to simplify the procedure in this way, not only do we undermine the office of the administrative judge but we create legal uncertainty, especially since the text remains vague on the notion of “motive unrelated to town planning rules”. subject to as many interpretations as there are jurisdictions.

**Mr. Guillaume Vuilletet, draftsman.** Unfavorable opinion, because it is precisely a question of fighting against the unpredictability of decisions. Your amendment aims to remove a long-awaited measure which aims to protect planning permissions.

I understand your position which amounts to saying that, if the town planning document under which the authorizations were given is canceled totally or partially, it is appropriate to cancel the acts taken under its authority.
However, this logic would have harmful consequences for all actors on the ground, because it invalidates authorizations that take a long time to obtain, are costly for the petitioners and calls into question the very execution of the operations.

During our hearings, no one among the representatives of administrative judges or local elected officials, nor among those involved in town planning or construction, questioned this measure recommended by the report.
Ms. Christine Maugüé, State Councilor, to improve the litigation of
town planning.

This report also underlines that according to a decision of February 7, 2008 of the Council of State concerning the commune of Courbevoie, " *urban planning authorizations do not constitute acts of application of urban planning documents and benefit from a certain autonomy in relation to him .*

*The Commission **rejects** the amendment.*

*Then she comes to amendment CL3 by Mr. Jean-Carles Grelier.*

**Mr. Robin Reda.** The amendment is defended.

**Mr. Guillaume Vuilletet, draftsman.** Your amendment aims to replace the limitation in time of requests for interim relief to the date of crystallization of the means, as provided for by the bill, by the setting by the judge of a deadline.

I am against it because the deadline proposed by the bill again results from a consensual proposal resulting from the “Maugué report”: the crystallization of the means will take place two months after the communication to the parties of the first defense.

Furthermore, this period may be adjusted by the judge when the investigation of the case requires it, and full latitude is therefore left to the judge to assess whether this period is sufficient. We will nevertheless ask the minister for confirmation during the session so that there is no doubt on this point.

Finally, the time limits for litigation in town planning matters – twenty-three months on average in first instance, sixteen to eighteen months on appeal and fourteen months in cassation – are today totally unsuitable for economic issues, and it is appropriate to take new measures to improve them.

However, I emphasize that this reform will not be neutral for the magistrates concerned and that we must, within the Law Commission and as has already been recalled during previous debates, ensure that the means follow, in order to avoid crowding out other businesses.

*The Commission **rejects** the amendment.*

*She then examined amendment CL4 from Mr Jean-Carles Grelier.*

**Mr. Robin Reda.** When the judge intervenes at first instance on a summary judgment, and when he pronounces a modification or a regularization, we propose that he has the freedom to limit or not the scope of his decision, according to what he considers useful for a good administration of justice. This allows the judge to retain his sovereign appreciation.

**Mr. Guillaume Vuilletet, draftsman.** Unfavorable opinion. I indeed consider that your amendment is almost satisfied, even if you defend a slightly different logic, since the judge can refuse to grant a request for partial annulment on the condition, however, of motivating this refusal.

The judge therefore retains freedom of appreciation on the means which seem to him to be the most appropriate depending on the circumstances, but he must explain why he favors cancellation, which, once again, concerns projects whose economic stake may be important.

*The Commission **rejects** the amendment.*

*Then she comes to amendment CL19 from Ms Marie-France Lorho.*

**Ms. Marie-France Lorho.** We are opposed to the new wording of the town planning code aimed at replacing the “defense of legitimate interests” with the translation of “abusive behavior”. In order to be effective, the appeal brought against a building permit must in fact aim to defend legitimate and not particular interests; moreover, the chosen formulation refers not to factual elements but to a behavioral analysis.

**Mr. Guillaume Vuilletet, draftsman.** During her hearing, Ms Maugüé explained the reasons for this modification. Indeed, in the current state of the law, considering that an appeal is abusive is almost tantamount to considering that it should never have been filed, since the courts consider that as soon as an applicant has an interest in taking action, this recourse cannot be implemented in conditions exceeding the defense of its legitimate interests. The wording chosen allows this mortgage to be lifted. It refers to the requirement of loyalty of the

applicant, which is one of the foundations of the contentious procedure. Unfavorable opinion.

*The Commission **rejects** the amendment.*

*She then examined amendment CL5 from Mr Jean-Carles Grelier.*

**Mr. Robin Reda.** This amendment raises the question of the interest in acting of environmental protection associations, of which you have underlined, in your work, the privileged access they have to justice to oppose real estate projects.

If this privileged access is enshrined in the environmental code, it seems to me that we must take into account the case law of the Council of State which, in a decision of March 2015, sets limits to this interest in taking action, including for environmental associations, which must demonstrate the merits of their request.

We must also specify whether only approved associations are concerned or also associations which have declared themselves to be environmental protection associations but which in reality aim to defend more particular interests.

**Mr. Guillaume Vuilletet, draftsman.** Your amendment is satisfied by the law in force since, for associations to be able to act, they must have an interest in acting, that is to say, they must be directly affected by the project, for example if it the latter is located near their installations, or that their interest in acting comes from their statutes.

I emphasize in this regard that the scope of the associations concerned has been reduced compared to the law in force, since the presumption of loyalty no longer concerns associations whose main purpose is environmental protection, but those approved for this purpose. Unfavorable opinion.

*The Commission **rejects** the amendment.*

*She then comes to the rapporteur's amendment CL45.*

**Mr. Guillaume Vuilletet, draftsman.** The bill proposes to better regulate transactions in town planning, by strengthening registration obligations on the one hand, and on the other hand prohibiting associations from deriving a financial benefit from their action.

We completely agree with these provisions. However, we wish to create an exception for sums incurred to prepare the appeal and initiate the litigation procedure. These amounts are small – often a few thousand euros – but could constitute an obstacle to the transaction, even though, in most cases, this procedure makes it possible to find amicable solutions beneficial to all parties.

Without this measure, certain associations could be encouraged to go until litigation to benefit from reimbursement of costs incurred.

*The Commission **adopted** the amendment.*

*Then she examines amendment CL1 from Mr. Jean-Carles Grelier.*

**Mr. Robin Reda.** Protectors of administrative law are concerned that the annulment of an administrative act may, in this case, not mean a return to the previous legal order. This involves deleting the paragraphs which go in the direction of the legalization of an administrative act, taken in application of canceled town planning rules and calling into question this exorbitant right included in the bill.

*Following the unfavorable opinion of the draftsman, the Commission **rejects** the amendment.*

*Then it gives a **favorable opinion** on the adoption of amended article 24 .*

*After article 24*

*The Commission has before it the rapporteur's amendment CL46.*

**Mr. Guillaume Vuilletet, draftsman.** From January 1 , 2020, the publication of town planning documents from local authorities must be done on the national town planning portal created in 2015. This portal already brings together numerous maps and should constitute a very interesting tool for planning professionals. town planning, courts, administrative services or citizens seeking information.

Furthermore, to meet their publicity obligations, many communities make these documents as well as the planned revision projects available to the public, particularly on their website.

This amendment proposes to strengthen the information intended for the public by allowing communities to transmit these revision projects to the State, so that the people concerned can have a complete and reliable national tool to ensure the effects produced, and possibly contest them. Better knowledge by everyone of the rules and their evolution will make it possible to reduce delays and increase the dynamism of the construction sector.

*The Commission **adopted** the amendment.*

# TITLE IV
# UPLIFT

## CHAPTER I ER
### Revitalization of city centers

*Article 54*

(art. L. 303-2 [new] and L. 304-1 of the construction and housing code, and art. L. 752-2 of the commercial code)

**Create a contract for the revitalization of city centers**

**Summary of the device and main effects:**

This article introduces a new single integrative contract for medium-sized towns, called “territorial revaluation operation” (ORT).

The purpose of this contract is to strengthen the attractiveness of city centers through a regional project comprising actions in urban planning, housing and support for economic activity.

In particular, it will make it possible to formalize the commitment of public and private actors participating in the implementation of the national “City heart action” plan announced in March 2018 and from which 222 cities should benefit over five years.

To support this reform, exemptions in terms of commercial town planning are also introduced in order to favor installations in the city center and to allow the prefect to better supervise those planned on the outskirts when they are likely to affect the objectives pursued by ORT.

**Latest legislative changes made:**

The ORTs replace the operations of requalification of old degraded neighborhoods (ORQAD), introduced by law no. 2017-86 of January 27, 2017 relating to equality and citizenship, which did not make it possible to integrate the economic dimension of the revitalization of city centers.

**Contributions from the Commission:**

The Law Commission adopted several provisions aimed at supplementing this article so as to:

– specify the conditions under which actors, and more particularly private actors, likely to provide support or take part in carrying out a territorial revitalization operation (ORT), can be signatories to its agreement;

– ensure parliamentarians are informed about the implementation and progress of ORTs carried out in their department;

– provide for reconversion or rehabilitation measures for industrial and commercial wastelands within the framework of the ORT;

– specify the conditions under which the right of pre-emption can be entrusted to a third party operator;

– submit warehouses for preparation and storage of purchases made online to a commercial operating authorization;

– extend the possibility for the prefect to suspend, under certain conditions, the registration and examination of commercial installations on the territory of municipalities participating in an ORT or located near such an operation, to “drives” and e-commerce warehouses;

– improve planning for the development of the commercial offer in town planning documents.

## I. MEDIUM CITIES, AN ESSENTIAL VECTOR OF TERRITORIAL DEVELOPMENT

### 1. The growing difficulties of medium-sized towns

Medium-sized towns provide an essential function for the organization of the territory in that they constitute centers of polarity in rural or peri-urban areas, ensuring in particular access to public services, health professions, transport, leisure and businesses.

As such, they represent the living space of 23% of the population.
French and account for 26% of employment.

However, while some of them stand out for their vitality, many others have weaknesses that can affect their entire living area.

Devitalization factors are thus recurrent despite the diversity of local situations and reflect the progressive weakening of the economic and social fabric which has affected many medium-sized towns for almost twenty years.

*Habitat degradation*

The centers of medium-sized towns generally concentrate old housing, more or less degraded depending on the neighborhood, and often unsuitable for needs.

households in terms of surface area and comfort, as well as traders occupying the ground floors.

However, the cost of renovating these buildings, sometimes classified, often proves prohibitive compared to market prices, discouraging owners from ensuring their maintenance. Consequently, households with the wealthiest incomes settle in the outskirts where they benefit from more spacious housing at a moderate land cost and are replaced by households with modest incomes. At the same time, the vacancy rate is also increasing and can lead to the gradual creation of unsanitary pockets which accentuate the downgrading of housing located in the city center.

This development results in a better standard of living on the outskirts and the concentration of social difficulties in the city center due to an aging population, less qualified and more frequently affected by unemployment or underemployment.

ÿ *The decline in economic activity*

The departure of solvent households also contributes to weakening economic activity in the city center, while encouraging the creation of new commercial zones on the outskirts, around which local services are often grouped (pharmacy, post office, doctor, etc.). .

This movement of places of activity and consumption from the center to the periphery often occurs without overall reflection on the development of the territory and in the absence of coordination with neighboring towns.

Certain cities, hosting specialized sectors of activity, have could also have been affected by their closure or loss of profitability.

Several studies have been carried out in recent years to document these developments and identify reform proposals. As such, the joint report of the General Council for the Environment and Sustainable Development (CGEDD) and the General Inspectorate of Finance (IGF) of July 2016 on the “commercial revitalization of city centers” and the CGEDD report from 1) March 2017 “Including the dynamics of commerce in the sustainable city” draw , up the following observations:

– the vacancy rate in the centers of medium-sized towns continues to increase. It thus rose from 6.1% to 10.4% between 2001 and 2015, due in particular to increased competition **with commercial zones.**
**located on the outskirts** (marked by a “race for m2 ”), but also with **online commerce** whose growth has profoundly changed the modes of

*(1) These reports were supplemented by the report on “the commercial revitalization of medium-sized towns” submitted to the Minister of Territorial Cohesion in March 2018 by Mr. André Marcon, honorary president of the Chambers of Commerce and Industry of France .*

household consumption (1). However, as the joint report of the IGF and the CGEDD indicates, “ there ***is no commerce in the city center without a good balance competitions ”;***

– the development of large commercial areas continues at a pace increasingly disconnected from that of household consumption (commercial areas have increased by 3% per year since 2000 while consumption increased by only 1.5% per year) and even though the consumption preferences observed in recent years seem to once again favor local commerce. A stock of 5 million m2 of major projects is thus awaiting completion despite their negative effects on the quality of the landscapes and on the organization of the urban fabric;

– a new phenomenon of commercial wasteland is observed in certain territories, coupled with a “headlong rush” consisting of creating a new commercial zone rather than renovating existing ones for cost reasons.

These various findings are partly due to a lack of planning and regulation of commercial installations.

As such, the documents defining the main orientations in terms of territorial planning and land use (like the regional planning plans, sustainable development and territorial equality –
SRADDET, territorial coherence schemes – SCoT, and local town planning plans – PLU) do not sufficiently integrate the commercial dimension of territorial development.

Likewise, the system for regulating new commercial establishments based on an examination of applications by a departmental commercial planning commission (CDAC) and, in the event of an appeal, by a national commission (CNAC) has proven to be deficient. As the aforementioned IGF and CGEDD report points out, “ the *proportion of favorable opinions in CDAC has been stable since 2009 (around 90% acceptance in terms of number of files), which makes one perplexed about the regulatory capacity at this level. In CNAC, the proportion of refusals certainly increased between 2012 and 2014 (47% refusal in 2014) but the trend seems to be reversed in 2015 (41% refusal). »*

ÿ *Insufficient urban development*

The development of certain city centers can also constitute a
hinder their attractiveness.

Improving accessibility through public transport, a traffic plan favorable to the “customer journey” or the provision of parking partly conditions retail activity in the city center. The aforementioned report

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*(1) E-commerce turnover increased from 8.5 billion euros in 2005 to 65 billion euros in 2015.*

thus recalls that “ a *lack of accessibility plays an important role in the abandonment of commercial centralities in favor of the peripheries in particular. The car should therefore not be considered the enemy of the city center. It is estimated that more than 50% of shopping-related trips are made in car. »*

Furthermore, entertainment spaces or the tourist promotion of heritage can generate positive flows, particularly for local commerce activity.

In many medium-sized towns, urban renovation and heritage enhancement work must be undertaken. However, these operations are often costly and require establishing a medium and long-term development strategy that they are not always able to carry out technically and financially.

ÿ *The role of public services*

The departure of certain public services from city centers (schools or teaching establishments, health centers, administrative services, etc.) can accentuate the observed decline and create a negative knock-on effect.

Public authorities therefore also have a role to play in guaranteeing the maintaining local services in the city center.

**2. The need to define revitalization strategies at the local level**

The contrast of situations encountered locally requires a strong commitment from local actors in the definition of a territorial project taking into account the specificities of their economic and social fabric, as well as their development or implementation constraints with regard to others urban centralities (large cities, metropolises, etc.).

For example, the joint report from the IGF and the CGEDD identified six groups that could represent the spectrum of difficulties encountered by medium-sized towns, particularly in terms of commercial activity, namely:

– municipalities with only a more fragile socio-economic fabric than the average (for example, Elbeuf, Évreux and Forbach);

– municipalities facing only an imbalance between periphery and centrality (for example, Voiron and Saint-Brieuc);

– municipalities experiencing more general devitalization with a loss of public equipment or services (for example, Chartres);

– municipalities facing a fragile socio-economic fabric and poor management of the periphery and centrality (for example, Mulhouse, Béthune, Carpentras, Lens and Carcassonne);

– municipalities facing a fragile socio-economic fabric and more general devitalization (for example, Charleville-Mézières, Béziers and Argentan);

– municipalities experiencing an imbalance between the periphery and the centrality and a more global devitalization (for example, Thonon-les-Bains, Saint-Nazaire and Pau).

To respond to this observation, the Government announced, in March 2018, **the national plan "City heart action"** based on the dual objective of improving the quality of life of residents of medium-sized towns and strengthening their role within the organization and development of territories.

To this end, **the 222 selected cities will be able to propose revitalization projects based on the** following 5 structuring axes:

– rehabilitation of housing in the city center, in particular to ensure greater social diversity;

– balanced economic and commercial development between center and periphery, but also between marketing methods;

– improved accessibility, mobility and connections;

– enhancement of public spaces and heritage;

– maintaining quality public equipment and services.

The governance of these programs, defined within a partnership agreement, will be based on:

– **the mayor** who will chair, in conjunction with the president of the intermunicipality, the project committee established in his municipality. In this context, the recruitment of city center managers will be encouraged;

– **the public and private partners,** associated with the project, who will act in accordance with the objectives set for them by the agreement;

– **the department prefect** who will coordinate the decentralized services (in particular the departmental directorates of the territories) with a view to assisting the communities concerned;

– **a regional engagement committee,** under the aegis of the regional prefect;

– **the General Commission for Territorial Equality** (CGET), which will coordinate the entire system at the national level.

To ensure the financing of the projects thus defined, an envelope of **5 billion euros over five years** will be available. Its funds will be provided to the tune of one billion euros by the Caisse des Dépôts et Consignations in equity and 700 million euros in loans, 1.5 billion euros by Action Logement and 1.2 billion euros by the National Housing Agency (Anah).

Other sources of funding may be requested, such as State-region contracts or European structural funds.

Furthermore, this public financing can also promote leverage effects and lead private investors to support the proposed projects.

In this context, this article makes it possible to support the implementation of this national plan by introducing a new legislative tool to carry out integrative projects at the territorial level.

## II. THE CREATION OF URBAN REVITALIZATION OPERATIONS

### 1. A legislative tool at the service of territorial projects

**Territorial revitalization operations,** the aim of which is to simplify and concentrate all the steps undertaken by public and private actors in favor of the revitalization of medium-sized towns and in particular their town centers, are created within a new article L. 303-2 of the construction and housing code.

These operations must allow " the *implementation* ***of a global project of territory*** *intended to adapt and modernize the housing stock and businesses as well as the urban fabric of this territory, to improve its attractiveness, fight against the vacancy of housing and businesses as well as against substandard housing and promote the built heritage, in a perspective of innovation and sustainable development of the trade and craft sectors "* **(paragraph** 4).

Unlike the operations for the requalification of old degraded neighborhoods (ORQAD) introduced by the aforementioned law of January 27, 2017, which focused on housing and urban renovation, and which they replace (1), they thus integrate an economic and commercial.

Actors wishing to participate commit to a partnership approach formalized by signing **an agreement.** It could be actors

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*(1) ORQADs concluded previously upon the entry into force of these provisions will remain in force and may be transformed, if necessary, into ORT.*

public, namely local elected officials, the State, interested public establishments (1), as well as, where applicable, any private person who would like to contribute, subject to possible situations of conflict of interest **(paragraph** 5).

According to the impact study, private investors would thus be offered " promising *economic prospects "* as part of an operation that is " readable *and stable over time in return for their investments ".*

However, it will be necessary to precisely define the rules allowing the intervention of private actors to be regulated, in particular so as to limit the risks of litigation in the event of a conflict of interest and not to weaken the projects carried out by the communities.

The agreements must include:

– an urban, economic and social project to revitalize the territory concerned **(paragraph** 7);

– the perimeter covered by this project which must necessarily include the center of the main town of the territory;

– the duration, timetable, financing plan of the planned actions and their distribution within defined sectors of intervention **(paragraph** 8).

**ORTs defined according to intervention priorities for the communities concerned**

Largely incorporating the provisions provided for the ORQADs, the agreements signed within the framework of the ORTs may also provide for all or part of the following elements:

– housing improvement actions. The ORT may, in this capacity, serve as a programmed housing improvement operation agreement provided for in article L. 303-1 (2) **(paragraph** 9);

– a real estate and land intervention system for blocks of vacant or degraded housing **(paragraph 11) ;**

– a rehousing and social support plan for the occupants, with the aim of priority objective of maintaining them within the same reclassified district **(paragraph 12) ;**

– the coercive measures to combat substandard housing to be implemented **(paragraph 13) ;**

– actions in favor of the territory's energy transition, particularly in terms of the real estate portfolio **(paragraph 14) ;**

*(1) In particular state or local public land establishments whose scope of intervention, currently concentrated on tense areas, could be extended according to the impact study of this article.*

*(2) These agreements aim to rehabilitate the built real estate stock and improve the housing supply.*

– actions in favor of social diversity relating in particular to the offer of housing, public services and health services **(paragraph 15) ;**

– development actions or operations aimed at improving accessibility, service to city center businesses and mobility as well as the objective of locating businesses in the city center **(paragraph 16) ;**

– actions intended to modernize or create economic, commercial, artisanal or cultural activities **(paragraph** 17). As such, a city center coordinator will need to be recruited to carry them out;

– actions tending, particularly in the city center, to the creation, extension, transformation or reconversion of commercial or artisanal spaces **(paragraph 18) ;**

– the commitment of the competent authority to modify the planning documents necessary for the implementation of these actions **(paragraph** 19).

Furthermore, in order to facilitate the carrying out of these operations, two complementary measures are introduced, one aimed at strengthening the right of urban pre-emption, particularly on commercial or artisanal goods, as was already the case within the framework of the ORQAD, and, for the other, to allow them to benefit from funding provided for by State-region plan contracts **(paragraphs 20 and** 21).

Although these operations can be carried out outside the “Action heart of the city” plan, they nevertheless make it possible to support and legally secure its implementation.

According to the information sent to your rapporteur, communities will also benefit from assistance in project engineering, essential to ensure the effectiveness of ORTs.

The Caisse des Dépôts et Consignations will devote 50 million euros to carrying out preliminary studies, while Anah will provide 50% co-financing for five years for a project director position to ensure management.

The departmental directorates of the territories will be responsible for examining the projects, as they already do within the framework of the national program for urban renewal.

However, at the local level, communities will not always have the necessary means in terms of engineering complex projects.

As such, the joint report of the IGF and the CGEDD underlines that “ the *resources in expertise and operational capacities exist but are not today up to the challenges nor sufficiently mobilized by medium-sized cities ”.*

In terms of commercial revitalization, “ there *are specialized design offices (…) but they are quite few in number and their skills are limited*

*often in the upstream phases of diagnosis and definition of the project, while the implementation phases require the use of operating organizations. »*

Furthermore, if " mixed *economy companies (SEM), local public companies (SPL) or local public development companies (SPLA) have developed over the past fifteen years intervention skills in old neighborhoods, in particular for heavier and more structuring approaches than planned housing improvement operations (OPAH) and, recently, for urban renewal projects in old degraded neighborhoods under the National Agency for Urban Renovation (ANRU) ",* they are few in number on the territory.

Particular attention must therefore be paid to the quality and precision of the proposed projects, while technical and strategic support for communities must constitute one of the priorities for the implementation of ORTs, particularly in the absence of a structure. competent local planning authority.

**2. Supervision of commercial establishments**

In order to support the city center revitalization projects thus defined, this article also provides for several measures aimed at better regulate commercial establishments.

Article L. 752-2 of the Commercial Code relating to authorizations commercial exploitation (AEC) is thus modified so as to provide:

– an exemption from the AEC thresholds for projects planned to be located in the city center of the main city of the territorial revitalization operation **(paragraph** 23). In addition to simplifying administrative procedures, this provision should allow, for example, the installation of so-called "locomotive" signs on areas of more than 1,000 m2 which will encourage general patronage of nearby businesses;

– the possibility for the prefect to suspend by decree, after advice from the EPCI and the municipalities signatory to the ORT convention, the examination in CDAC of applications for commercial establishment in the territory of one of these municipalities , outside the scope of the operation. This decision is taken based on the characteristics of the project and the situation of the city center likely to be affected **(paragraph 24) ;**

– the possibility for the latter to proceed in the same way for commercial establishment projects in the territory of other member municipalities of the EPCI or of a neighboring EPCI, when these projects " are *likely to seriously compromise the objective of the operation ".* This decision is then taken on a case-by-case basis, after consulting the EPCI and the municipalities concerned **(paragraph** 25).

These suspension measures may not exceed a maximum duration of three years, extendable, if necessary, by an additional year.

They aim to encourage the currently observed trend of a return of consumers to local brands, particularly for the retail trade of food or cultural goods.

A decree of the Council of State will specify the conditions of application of these provisions.

**III. THE COMMISSION'S CONTRIBUTIONS**

While welcoming the provisions of this article which allow local authorities to participate in a process of revitalizing their city center by benefiting from financial and technical support, the Law Commission has adopted several measures aimed at:

– allow parliamentarians to be informed about the implementation and progress of ORTs carried out in their department;

– ensure, where necessary, better management of industrial and commercial wastelands which are becoming an increasingly important subject in some of our territories;

– subject e-commerce warehouses to the installation rules applicable to physical stores and drives. Indeed, online purchases today constitute an increasingly strong source of competition for physical businesses, which are located in city centers or on the outskirts;

– extend the possibility for the prefect to suspend, under certain conditions, the examination of requests for commercial installations within the perimeter of the ORT or in its catchment area to e-commerce drives and warehouses;

– guarantee better planning of commercial zones in town planning documents, on the one hand, by returning to the optional nature of the development of a craft and commercial planning document within the framework of the territorial coherence schemes which constitute the intercommunal strategic planning tool and, on the other hand, by specifying that local town planning plans can, in addition to operations intended for the creation of businesses, include commercial renovation operations;

– refer to a decree in the Council of State the definition of the conditions under which actors, and more particularly private actors, likely to provide support or take part in the creation of an ORT, can be signatories to the agreement , as well as the supervision of the delegation of the right of pre-emption which can be granted to the operator responsible either for modernizing the commercial, artisanal or cultural activity under the responsibility of a

city center coordinator, or to reconvert commercial or artisanal spaces.

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*The Commission examined the rapporteur's amendment CL62.*

**Mr. Guillaume Vuilletet, draftsman.** The purpose of this amendment is to ensure that parliamentarians are informed about the implementation and progress of territorial revitalization operations (ORT) carried out in their department. It is in fact important that all elected officials in a territory can be actors, participants or partners in these operations.

*The Commission **adopted** the amendment.*

*Then she comes to amendment CL53 from the draftsman.*

**Mr. Guillaume Vuilletet, draftsman.** We mentioned several times during the hearings the conditions that private individuals must meet to be signatories of an ORT without this leading to a conflict of interest if they subsequently intervene in the context of this or that action which could be Implementation.

According to the answers given to us by the Government, these mainly concern private actors already present on the site subject to the ORT and who would be required to participate, in particular to renovate a building or enlarge a commercial area.

However, the subject can be sensitive and it is appropriate to define clear rules to which elected officials can refer to avoid weakening *a posteriori* agreements concluded by a large number of local actors on the grounds that one of them should not have been a signatory.

*The Commission **adopted** the amendment.*

*It then received amendment CL40 from Ms Caroline Abadie, which is the subject of subamendment CL61 from the draftsman.*

**Ms. Caroline Abadie.** This amendment aims to include industrial wastelands in the scope of ORTs. If these spaces sometimes disfigure the outskirts of city centers, some are real architectural gems. In addition, the rehabilitation of these sites will make it possible to be more economical in our use of land.

**Mr. Guillaume Vuilletet, draftsman.** We propose to sub-amend this proposal by also including commercial wastelands in the scope of ORTs.

Subject to the adoption of this subamendment, we are in favor of adopting Ms. Abadie's amendment.

*The Commission **adopted** subamendment CL61.*

*Then it **adopted** amendment CL40 **as subamended.***

*It then received amendment CL41 from Ms Caroline Abadie.*

**Ms. Caroline Abadie.** In article 54 which defines territorial revitalization operations, it is indicated that a right of pre-emption can be granted to an operator. Regarding such an important act, it seems to us that prior expertise is necessary in order to avoid any risk of litigation likely to call into question the legality of these operations. We therefore hope that it will be clarified by a decree in the Council of State that the operators able to benefit from the delegation are essentially public actors or operators majority owned by public entities – I am thinking in particular of mixed economy companies ( SEM) local.

**Mr. Guillaume Vuilletet, draftsman.** This amendment aims to more precisely regulate the type of operators who may be delegated the right of pre-emption with a view to carrying out two specific actions: modernizing commercial, artisanal or cultural activity under the responsibility of a coordinator, or reconverting surface areas commercial or artisanal.

In reality, these will mainly be local mixed economy companies, local establishments or the National Public Establishment for the development and restructuring of commercial and artisanal spaces (EPARECA), which has the mission of supporting as project owner for the reconversion of damaged commercial areas, particularly in the city's political districts.

The operators under these two actions should therefore be either public or majority owned by public entities. But as the text does not specify this, I give a favorable opinion to this reference to a decree, which will better regulate the possibility of delegating this right.

*The Commission **adopted** the amendment.*

*She then comes to the rapporteur's amendment CL48.*

**Mr. Guillaume Vuilletet, draftsman.** Today there are two sources of competition for city center businesses: physical stores located on the outskirts and e-commerce, which is growing exponentially. However, the bill does not take into account this second reality which is already well anchored in consumer practices, especially when they are far from a dynamic and accessible shopping area.

If we do not adopt regulatory measures specific to e-commerce, we will remain with an outdated vision of the challenges of commercial competition.

With this amendment, I therefore propose to subject to authorization warehouses for the preparation and storage of e-commerce deliveries, in the same way as drives , which have been subject to it since the ALUR law.

**Mr. Robin Reda.** I completely agree that e-commerce competes with city center businesses. However, when we consider the online commerce giants who are setting up shop on thousands of square meters near our cities, including in the Parisian suburbs, I believe we must keep in mind that the major competition that we face is international.

When a major player in online commerce wishes to set up in Europe to make rapid deliveries, the competition is not between Cergy-Pontoise and Brétigny-sur-Orge, but between the suburbs of London, those of Paris or that of Frankfurt, real *hotspots* allowing deliveries, including internationally, within very short deadlines.

Be careful not to make legislation and standards too heavy, at the risk of seeing these giants desert our territory, taking with them the many jobs they generate and which are welcomed by all the local elected officials who benefit from them.

And since this law is supposed to focus on digital development, although the digital aspect is very little developed, it would be preferable to think about possible complementarities between city center commerce, which operates less and less on inventory , and these supply platforms, the first being able to act as a showcase located in the city center for the latter. Here we touch on the broader question of the animation of urban centers, which we will need to address more broadly as part of the discussions on this bill.

**Ms. Caroline Abadie.** I congratulate the rapporteur for this amendment, which addresses a subject absent from the ELAN bill, although it was frequently discussed during the hearings, regardless of the size and surface area of the businesses concerned.

All traders clearly understood the benefit of this bill. The complementarity to which you refer is positive, and this amendment, which seeks to establish a form of equality between businesses in city centers or the outskirts and e-commerce platforms, if it does not constitute a solution miracle at least has the merit of addressing the problem. It does this without being an obstacle to the free establishment of these establishments in our territory, because we are only talking about a simple administrative authorization, which cannot prevent the establishment of e-commerce giants in France.

**Mr. Guillaume Vuilletet, draftsman.** The challenge is obviously not to prohibit the installation of e-commerce platforms in France but to put two forms of commerce on an equal footing, one of which competes strongly with the other. This in no way means that e-commerce is

necessarily harmful: some small town center businesses survive because customers come to pick up their packages there. This does not mean that we should let things happen without intervening. Let's not do like with *drives,* for which we were able to legislate when it was already too late.

If we want to prevent city center businesses and medium-sized stores on the outskirts from being weakened again, we must start to think about concrete measures, which will be extended within the framework of the Pacte law or the next law. of finance.

*The Commission **adopted** the amendment.*

*The Commission has before it amendment CL49 from the draftsman.*

**Mr. Guillaume Vuilletet, draftsman.** The purpose of this amendment is to extend to e-commerce *drives* and warehouses the possibility for the prefect to suspend the examination by the departmental commercial planning commission (CDAC) of a request for establishment in an area located outside of the territorial revitalization operation (ORT).

The regulation that we plan for physical businesses must also apply to e-commerce, therefore to *drives* and warehouses, so as to ensure that the same rules apply to all players participating in the commercial offer.

*The Commission **adopted** the amendment.*

*She examined the rapporteur's amendment CL52.*

**Mr. Guillaume Vuilletet, draftsman.** This amendment aims to ensure that town planning documents take better account of the planning issues for commercial facilities, particularly those linked to storage or logistics.

In this respect, it is inspired by the recommendations of the report on the revitalization of city centers produced jointly by the General Inspectorate of Finance (IGF) and the General Council for the Environment and Sustainable Development (CGEDD) according to which it is urgent to better organize the commercial offer by developing “ a *territorial planning system articulated between the regional level, the living area level and the intercommunal level ”.*

It is therefore proposed to complete the content of territorial coherence plans (SCOT) and local urban planning plans (PLU) so that they better integrate this commercial dimension of territorial planning.

These modifications would take place during the revision of these documents so as not to force the communities concerned to renegotiate them for this sole purpose.

*The Commission **adopted** the amendment.*

*It* then ***adopted*** *the rapporteur's coordinating amendment CL60.*

*Then it issues a **favorable opinion** on the adoption of amended article 54 .*

*After article 54*

*The Commission has before it amendment CL65 from the draftsman.*

**Mr. Guillaume Vuilletet, draftsman.** The purpose of this amendment is to make it compulsory for an independent body to carry out an impact study for any commercial equipment project with a surface area greater than 2,000 square meters. This would allow CDACs to better understand the effects of a positive decision before giving their authorization.

Remember that 80% and 90% of the decisions of the departmental commissions are favorable compared to 50% for the National Commercial Development Commission (CNAC), a sign of a somewhat particular functioning.

*The Commission **adopted** the amendment.*

*She examined the rapporteur's amendment CL51.*

**Mr. Guillaume Vuilletet, draftsman.** The mission of the center for studies and expertise on risks, environment, mobility and planning (CEREMA) is to provide the State and territorial stakeholders with support in terms of engineering and technical expertise for development projects requiring a multidisciplinary approach or involving a solidarity effort.

However, to accomplish this mission, this establishment lacks reliable and up-to-date information from the territories, as highlighted in the joint report of the IGF and the CGEDD. This amendment provides that it can rely more on data produced by a network of territorial observatories regarding socio-economic and environmental developments.

Article 40 does not allow us to go further but we hope that the Government will support us in this objective by possibly completing this drafting, which constitutes a first step forward for better information at local and national level.

*The Commission **adopted** the amendment.*

*She comes to amendment CL47 from the draftsman.*

**Mr. Guillaume Vuilletet, draftsman.** The hearings which our committee carried out and those which were organized by the information mission chaired by our colleague Arnaud Viala showed the place

central to the problem of commercial revitalization of city centers, which cannot be reduced to the sole presence of businesses because buildings, housing and demography must also be taken into account.

The National Public Establishment for the Development and Restructuring of Commercial and Craft Spaces (EPARECA) would provide a global approach, but its statutes limit its scope of intervention to city policy districts.

The purpose of this amendment is to allow, on an experimental basis, this establishment to intervene in all territorial revitalization operations. We know that the revitalization of city centers will require new financial resources - and it will be up to everyone to judge whether 5 billion euros over five years constitutes a sufficient sum, but it also calls for significant human resources, in particular in terms of expertise and project sharing.

*The Commission **adopted** the amendment.*

CHAPTER III

## Fight against substandard housing and slumlords

*Article 56*

(art. 1649 *quater-0* B *bis* of the general tax code)

**Strengthen sanctions against slumlords**

**Summary of the device and main effects:**

The purpose of this article is to create a presumption of income against sleep sellers, like that in force in particular in matters of drug trafficking or counterfeiting.

**Latest legislative changes made:**

The presumption of income from offenses concerning prohibited or strictly regulated goods and not giving rise, by nature, to declaration to the tax administration, was introduced by Law No. 2009-1674 of December 30, 2009 on amending finances. for 2009 to financially sanction their authors.

The purpose of this article is to introduce a new financial sanction against “sleep merchants” who derive personal enrichment from the provision of unfit housing.

Rents or other amounts received in the context of this activity would thus be subject to the presumption of taxable income system provided for by article 1649 *quater-0* B *bis* of the general tax code (CGI).

Indeed, when the tax administration is informed, following findings made within the framework of a criminal investigation carried out by the police, that a person had at their disposal a sum of money resulting from an offense, this person is presumed to have received taxable income equal to the amount of this sum. The offenses currently targeted are:

– crimes and offenses of drug trafficking;

– crimes relating to counterfeit money;

– crimes and offenses relating to weapons legislation;

– violations of alcohol and tobacco regulations;

– the offense of counterfeiting.

In order to sanction slumlords more effectively, it is proposed to extend this list to offenses relating to substandard housing. The criminal sanctions that can already be imposed would thus be supplemented by a financial sanction relating to the amount of rent or sums required in return for occupation of the accommodation.

As such, the Council of State considered in its opinion on this article that " under *Article L. 521-2 of the Construction and Housing Code, the rent or any sum paid in consideration for the occupation of premises* [unsuitable for housing] *ceases to be due from the date of formal notice or publicity to which the police measures have given rise. It follows from this that the sums of money produced from these offenses are collected in violation of Article L. 521-2* [cited above] *and that the income derived from them can be presumed to be concealed, except in exceptional circumstances, FISC administration. Consequently, the Council of State considers that these offenses may be included among the offenses referred to in article 1649 quater-0 B bis. »* (1)

This measure appears all the more necessary as the current means of combating slumlords are insufficient.

According to the impact study, of the 420,000 unworthy or degraded housing units in the private stock, 52% belong to private landlords who most often organize their insolvency through the use of real estate companies.

It is therefore well-organized trafficking and difficult to quantify, even though most of the people who are victims of it are in a situation of vulnerability or dependence.

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*(1) Opinion No. 394435 of March 29, 2018 on this bill.*

However, the number of convictions handed down each year, i.e. less than a hundred, of which only nine were accompanied by prison sentences in 2015, including two prison sentences, and for average fine amounts of between 1,000 and 10,000 euros, are not up to the observed phenomenon, especially in tense areas such as Ile-de-France which alone has more than 180,000 substandard housing units, or 5% of its private stock.

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*The Commission issues a **favorable opinion** on the adoption of Article 56 **without modification.***

*After article 56*

*The Commission examined the rapporteur's amendment CL59.*

**Mr. Guillaume Vuilletet, draftsman.** The purpose of this amendment is to allow the estimated costs of the work recommended by the prefect to be deducted from the amount of compensation paid to the owner of unsanitary housing in a non-irremediable manner until reaching, where applicable, the value of the bare land. .

In fact, the law in force only provides for the possibility of compensation equal to the value of the bare land if the property is irremediably unhealthy or if it has been the subject of an endangerment order accompanied by 'an obligation to demolish.

However, the compensation paid for the unsanitary condition of a property is too often high and hinders the possibility for communities to resort to expropriations even though the latter sometimes constitute the only solution to put an end to the unsanitary situation.

This would help avoid certain scandals. I have in mind the example of a property almost in ruins, for which a slum seller was sentenced to a criminal fine of 500,000 euros while the amount of compensation for expropriation had reached 6.5 million euros.

*The Commission **adopted** the amendment.*

*She examines amendment CL32 from Mr Dimitri Houbron.*

**Mr. Dimitri Houbron.** This amendment is intended to strengthen the fight against slumlords and substandard housing. It provides for applying to natural and legal persons convicted of having subjected one or more people to accommodation conditions incompatible with human dignity the penalty of general confiscation of their assets, as is the case in matters of money laundering. The confiscation would concern all or part of the property belonging to the convicted person, whatever their origin, licit or illicit, even in

the absence of any link with the offense, as well as all property of which he has free disposal, subject to the rights of third parties in good faith.

**Mr. Guillaume Vuilletet, draftsman.** I would ask you to please withdraw your amendment which is satisfied by existing law. An additional penalty is in fact provided for in this regard in article 131-21 of the penal code.

Furthermore, I propose through amendment CL58 that, for slumlords, the judge must give reasons for not pronouncing the additional penalty of confiscation of property used to commit the offense, because it is very little applied. The practices of judges must change, otherwise we
We will never be able to effectively combat these offenses whose victims are often very vulnerable people.

*The amendment is **withdrawn.***

*The Commission comes to amendment CL58 from the draftsman.*

**Mr. Guillaume Vuilletet, draftsman.** The purpose of amendment CL58 that I have just mentioned is to make mandatory the imposition of penalties for confiscation of usufruct or full ownership of property used by slumlords as well as a ban on acquiring property. for five years, unless the judge decides otherwise in view of the circumstances of the offense. He will then have to justify the fact of not pronouncing them.

It is a question of reversing the logic in relation to the law in force: the judge will be obliged to question the relevance of a partial or total confiscation which is the only way to hit the wallets of the slumlords, who are very well organized and very procedural

*The Commission **adopted** the amendment.*

*Article 57*

(art. L. 123-3, L. 129-2, L. 511-2 and L. 543-1 of the construction and housing code, art. L. 1331-22, L. 1331 -23, L. 1331-24, L. 1331-25, L. 1331-28, L. 1331-29, L. 1331-29-1 [new] and L. 1334-2 of the public health code, Article L. 2374 of the Civil Code and Articles 10-1 and 24-8 of Law No. 65-557 of July 10, 1965 establishing the status of co-ownership of built buildings)

**Use of administrative penalties in the fight against substandard housing**

**Summary of the device and main effects:**

The purpose of this article is to generalize the use of administrative penalties in matters of substandard housing as long as the measures prescribed by the prefect, the mayor or, where applicable, the president of the public intermunicipal cooperation establishment ( EPCI) were not executed by the housing owners within the set deadline.

**Latest legislative changes made:**

The administrative penalty against owners and lessors of unworthy housing was introduced by Law No. 2014-366 of March 24, 2014 for access to housing and renovated housing, known as the “ALUR” law.

## I. THE NEED TO STRENGTHEN THE USE OF ADMINISTRATIVE PURPOSES IN THE FIGHT AGAINST UNDIGNIFICANT HOUSING

The number of occupied private homes considered unworthy is estimated at 420,000 in mainland France and 70,000 in the overseas departments.

This estimate is based on the definition retained by the law of May 31, 1990 (1) according to which " *constitute unworthy housing premises or installations used for residential purposes and unsuitable by nature for this use, as well as housing whose The state, or that of the building in which they are located, exposes the occupants to obvious risks, which could harm their physical safety or their health. »*

These housing units, often very degraded, are found both in dense areas, where they fuel the activity of unscrupulous owners, even “slumlords”, as well as in relaxed areas. They are then often vacant and abandoned.

*(1) Law No. 90-449 of May 31, 1990 aimed at implementing the right to housing.*

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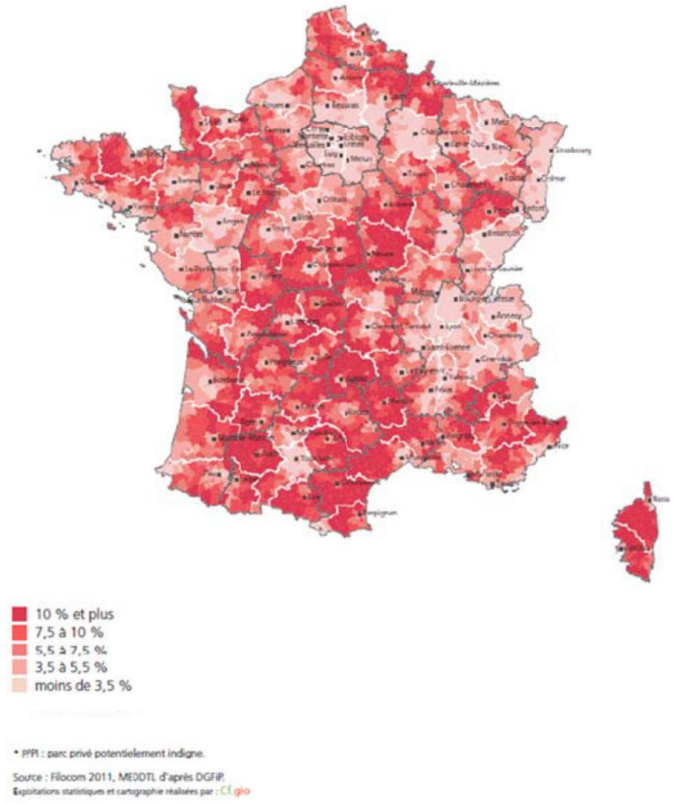


*Source: Study of impact of the meadow feels article.*

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The penalty may be, depending on the case, imposed by order of the prefect, the mayor or, where applicable, the president of the EPCI, without a court decision (1).

If the penalty is not the only tool available to the administration to obtain the execution of a decree, its use should make it possible to reduce ex officio executions by the public authorities (2). To this end, it must constitute financial pressure strong enough to encourage the owners concerned to act, without disproportion to the safety issues observed, so as to avoid a risk of annulment by the judge.

In accordance with the law in force, it can only be pronounced under police measures prescribing work. Its amount cannot exceed 1,000 euros per day and cannot reach, during the period during which it applies, an amount greater than the ceiling of the criminal fine imposed in the event of unsanitary conditions or danger (i.e. 50,000 euros or 100,000 euros for furnished hotels).

However, as the impact study highlights, the use of this tool has been quite limited since its introduction due to its optional nature, the risk of administrative litigation incurred and the restricted scope of situations in which it can be used. apply.

For example, the activity of “slumber merchants” consisting in particular of renting premises unsuitable for habitation or in a situation of overoccupancy, but which does not necessarily require the prescription of work, is excluded from the scope of application. administrative penalty.

However, these situations were at the origin of 45% of the police orders to combat unsanitary conditions taken in Ile-de-France, which represents one of the regions where the most substandard housing is concentrated.

In view of these findings, new measures are proposed to strengthen this tool and enable it to achieve the effects expected when it was created.

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*(1) The administrative judge may, however, be required to review the proportionality of the penalty measure (Council of State, Benjamin judgment, May 19, 1933).*

*(2) As highlighted in the interministerial instruction of October 26, 2016 relating to the monitoring of administrative procedures to combat substandard housing and the implementation of the administrative penalty, the automatic execution of security works at due to immediate danger or the rehousing of people have priority. If other situations may require interventions by public authorities, the cost they represent encourages us to seek as much financial participation from owners in operations as possible: "* the budgetary constraints with which the fight against substandard housing is confronted, at the same time As other public policies, imply a necessary prioritization of financed actions. In all cases, steps to recover the sums incurred for carrying out the ex officio measures must be implemented. »

## II. HARMONIZED RULES FOR MORE RECOURSE SYSTEMATIC ADMINISTRATIVE PURPOSES

This article clarifies the provisions relating to administrative penalties in force and extends their application to all special police procedures for combating substandard housing.

### 1. Harmonization of the rules governing the use of penalty payments administrative

The drafting of articles relating to orders taken by the mayor or, where applicable, by the president of the public establishment of intermunicipal cooperation following a transfer of competence (EPCI), to put the owners on notice to carry out the work prescribed under penalty of penalty, is harmonized under the title:

– buildings open to the public (furnished hotels) for which a situation of insecurity is noted, particularly with regard to the risk of fire and panic (article L. 123-3 of the construction and housing code) ;

– collective buildings for residential use exhibiting defective operation or lack of maintenance likely to create serious risks for the safety of the occupants or seriously compromise their living conditions (article L. 129-2);

– buildings threatening ruin (article L. 511-2);

– buildings with main residential use for which a situation unsanitary conditions, danger or insecurity have been noted (article L. 543-1).

The editorial coordination proposed for these different articles makes it possible to standardize procedures and respond to a strong expectation of clarification from the services concerned.

### 2. The default application of the administrative penalty

While " the *optional nature of the penalty provided for by the ALUR law may have constituted an obstacle to its implementation, in particular due to the risk of litigation linked to the necessary assessment by the services of the particular situation of each owner and to the reasons to be provided to justify the decision "* (1), this article makes it automatic **(paragraphs 3, 11, 21, 23 and** 39).

It is, in fact, about guaranteeing the effectiveness of this tool which financially penalizes owners who do not respect their obligations, while continuing to benefit from income from the buildings concerned.

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*(1) Impact study of this article annexed to the bill.*

A partial or total exemption is however made possible on the occasion of the quarterly liquidation of the penalty, if the person liable establishes that the non-performance of all of his obligations is due to circumstances which are not his fault. **(paragraphs 8, 16 and 29)** (1).

**3. Extension of the scope of administrative penalties**

The scope of application of administrative penalties is extended to all procedures making it possible to combat substandard housing, even when the housing concerned is not likely to be the subject of work.

The objective is to financially penalize owners who offer, often for exorbitant rents and unfit housing.

An automatic administrative penalty will thus be applied in the event of provision:

– premises unfit for habitation (article L. 1331-22 of the public health code) **(paragraphs 47 and 48) ;**

– premises in conditions which clearly lead to their overoccupancy (article L. 1331-23) **(paragraphs 49 and 50) ;**

– premises presenting a danger to the health or safety of their occupants (article L. 1331-24) **(paragraphs 51 and** 52);

– premises unfit for habitation for reasons of hygiene, health or safety (article L. 1331-25) **(paragraphs 53 and** 54).

Such a penalty will also be applied in the event of non-execution of the measures and work prescribed following a declaration of unsanitary conditions in a building which can be remedied (article L. 1331-28) **(paragraphs 55 to** 59).

A new article L. 1331-29-1 defines the conditions under which the administrative penalty will be applied under these procedures. Its wording is identical to that proposed for the procedures which can already give rise to the imposition of a penalty **(paragraphs 64 to** 77).

The same applies to article L. 1334-2 which provides for special police procedures to combat the risk of exposure to lead and within which a penalty system in the event of non-execution of work is introduced. in the same terms **(paragraphs 78 to** 98).

Finally, it is provided, in article L. 1331-29, that in the case of a building for which the measures aimed at remedying the unsanitary situation have not been carried out, the latter can be carried out automatically. after formal notice

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*(1) For example, if he does not have the necessary financial resources.*

unsuccessful of the owner to carry them out within a period of one month, **including for premises which have become vacant (paragraphs 60 to** 62).

This provision aims to allow work to be carried out even in the event of vacancy of unsanitary housing to prevent it from being abandoned by their owners, as is often the case, particularly in relaxed areas.

It thus returns to law no. 2016-41 of January 26, 2016 on the modernization of our health system which had introduced into article L. 1331-28 a provision drawing the consequences of the case law of the Council of State (1) considering that an owner was not required to carry out the work prescribed by the unsanitary order if the accommodation concerned became unoccupied and free to rent.

The legislator then specified that the work against unsanitary conditions must however be carried out before any new occupation, provision or re-rental of the accommodation, including when the limitation period for the work had been lifted or canceled under the conditions specified by the Council. of State in the aforementioned judgment.

This article therefore revisits these provisions by allowing the work to be carried out automatically by the public authorities, the costs of which may be borne by the owner.

#### 4. Payment of fines imposed by order of the prefect to the block municipal

Finally, it is proposed that the amount of administrative fines imposed by order of the prefect as part of the special policies to combat unsanitary conditions be paid, in application of the new article L. 1331-29-1, no longer to the budget of the the national housing agency (ANAH), but to the budget of the EPCI responsible for housing in the territory of which the building or establishment which is the subject of the order is located, on the condition that it has benefited from a transfer of special policies to combat substandard housing in application of article L. 5211-9-2 of the general code of local authorities.

In the absence of such a transfer, the amounts recovered remain paid to the ANAH budget. This measure aims to strengthen the role of intermunicipalities as the main local actor in this public policy **(paragraphs 73 and** 97).

All the provisions provided for in this article are applicable from the first day of the fourth month following the publication of the law **(paragraph 105).**

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*(1) EC, Mathieu judgment, April 15, 2015.*

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*The Commission issues a **favorable opinion** on the adoption of Article 57 **without modification.***

*After article 57*

*The Commission examines amendment CL31 by Mr Dimitri Houbron.*

**Mr. Dimitri Houbron.** This amendment proposes to give associations regularly declared for at least five years at the date of the facts and whose statutory object includes the fight against substandard housing the possibility of exercising the rights recognized to the civil party with regard to the offenses relating to accommodation incompatible with human dignity. In the same logic intended to break the symbolic and intimidating power of the slumlord who threatens the victim with reprisals in the event of initiation of legal proceedings, the amendment proposes a financial provision. The amount of the fine applicable in the event of the offense of disclosing the identity of a witness would increase from 75,000 to 375,000 euros.

**Mr. Guillaume Vuilletet, draftsman.** We asked the Chancellery about the possibility of doubling the fine to 150,000 euros and invite you to table an amendment proposing a less heavy increase at the meeting.

*The amendment is **withdrawn.***

*The Commission has before it amendment CL42 from Ms Caroline Abadie, which is the subject of subamendment CL64 from the draftsman.*

**Ms. Caroline Abadie.** This amendment aims to provide for a new acquisition ban for slum sellers in the context of real estate auctions by tender.

**Mr. Guillaume Vuilletet, draftsman.** We are in favor of this amendment, subject to the adoption of our sub-amendment aimed at extending the proposed system to amicable auctions.

*The Commission **adopted** the subamendment then the **subamended amendment.***

*She comes to amendment CL63 from the draftsman.*

**Mr. Guillaume Vuilletet, draftsman.** In the same spirit, this amendment aims to ensure that the judge verifies whether the successful bidder is not subject to a penalty of prohibition from acquiring real estate in the context of an auction by tender. .

*The Commission **adopted** the amendment.*

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*Article 58*

**Simplify by ordinance the procedures for combating substandard housing**

**Summary of the device and main effects:**

This article empowers the Government to reform by ordinance the procedures for combating substandard housing so as to better articulate the various administrative policies in force.

Developments in favor of the transfer of the policy to combat substandard housing to the EPCI are also planned.

**Contribution from the Commission:**

At the initiative of the rapporteur, the Law Committee returned to the possibility for the Government to modify, by ordinance, the conditions for the transfer of special polices from mayors to EPCI presidents.

This article empowers the Government to take by order, within eighteen months from the publication of the law, any measure intended to improve the fight against substandard housing in order to:

– to harmonize and simplify the administrative policies in force **(paragraph** 2). In fact, there are currently thirteen special police regimes that can be implemented by the mayor or the prefect depending on the case and according to varying procedures;

– to specify the powers devolved to the mayor as part of his general police powers in terms of visiting housing and recovering expenses incurred to deal with emergency situations **(paragraph** 3);

– to encourage the organization at the intercommunal level of tools and means to combat substandard housing **(paragraphs 4 to** 8).

This last objective aims, firstly, to modify the provisions relating to the **transfer of special polices from mayors to presidents of EPCIs.**

As a reminder, the EPCIs concerned are:

– EPCIs with their own taxation which are necessarily responsible for housing, namely metropolises, urban communities, urban communities;

– communities of municipalities with their own taxation which choose the housing skills among their optional skills.

As such, the impact study annexed to the bill presents the difficulties posed by article L. 5211-9-2 of the general code of local authorities to ensure the transfer " in *the hands of a single authority ",* i.e. the president of the EPCI, responsible for the fight against substandard housing.

Indeed, the transfer of competence in housing matters to the EPCI does not systematically lead to the transfer of special police powers which fall under the authority of the mayor. The latter may oppose such a transfer within six months following the date of the election of the president of the EPCI or the change in skills or scope of the intermunicipality. Where applicable, the president of the EPCI only exercises these police powers in the territory of the municipalities for which the transfer has been accepted, or renounces them entirely.

The impact study concludes that " the *transfer system provided for in article L. 5211-9-2 of the general community code, which is not specific to substandard housing policies and concerns other procedures, therefore gives rise to an unstable system where the identification of the competent authority at a given moment can sometimes prove difficult .*

However, this observation is due on the one hand to the revision of the intermunicipal map which may have called into question certain transfers, but also to the attachment of certain mayors, as a local level, to being able to retain means of rapid action in case of emergency in particular. As the impact study recalls, " faced *with unworthy housing situations,* ***mayors are the first to act*** *when the situation cannot be resolved through the initiative of the owners and interested parties. »*

As such, the Law Commission, at the initiative of the rapporteur, considered that it was preferable to limit, initially, the ordinance to the simplification of the regime of the thirteen special polices in force in the fight against substandard housing, before planning to modify the distribution of these policies within the municipal block.

Once the order has been published, consultation may be initiated with local elected officials to reform, if necessary, the conditions for transferring these policies to the EPCI.

Secondly, measures would be planned to encourage the pooling, at the intermunicipal level, of services to combat substandard housing and dangerous buildings.

This pooling would be based in particular on a reform of municipal hygiene and health services, currently falling under the jurisdiction of the municipalities or, where applicable, their EPCI. Indeed, initiatives to group these services and their resources at the intermunicipal level are

already underway, even when mayors have retained their police powers, and should be strengthened to ensure better coverage of the territory.

Finally, the delegation of the prefect's powers in the fight against substandard housing, provided for in the public health code, to the president of the EPCI would be facilitated.

As a reminder, this possibility of delegation is currently conditional by :

– the transfer to the president of the EPCI of the special police powers of mayors for all member municipalities;

– the delegation of stone aid to the EPCI;

– the establishment of a dedicated intercommunal service.

However, according to the impact study, this accumulation of conditions proves to be disincentive for EPCIs and no delegation has been granted to date. It therefore seems necessary to simplify the conditions under which this delegation can be carried out.

A bill to ratify the ordinances which will reflect these guidelines must be submitted to Parliament within three months following the publication of each ordinance.

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*The Commission has before it amendment CL9 of Mr. Jean-Louis Masson.*

**Mr. Jean-Louis Masson.** This amendment aims to reduce from eighteen to six months the time left for the Government to issue the order aimed at revising the procedures for combating substandard housing. This period of eighteen months seems far too long to us. It seems to have been chosen “with a wet finger”.

**Mr. Guillaume Vuilletet, draftsman.** The Council of State considered that “ given *the complexity of the current system and the extent of the measures to be planned, the duration of the authorization should be extended from twelve to eighteen months ”.* This is a maximum deadline: let's trust the Government to justify this order as soon as possible. I suggest you stick to the proposed wording, Mr. Masson.

*The Commission **rejects** the amendment.*

*She examined the rapporteur's amendment CL56.*

**Mr. Guillaume Vuilletet, draftsman.** This amendment aims to enable the Government to take the necessary measures to clarify the regime of police powers of the mayor and the prefect and to draw the consequences within the framework of their transfer, if necessary, to the president of the public establishment of intermunicipal cooperation (EPCI). On the other hand, he returns to the possibility for the Government to modify, by order, the conditions of this transfer to the EPCI.

Before modifying the distribution of these powers within the municipal block, it is necessary to know their nature at the end of the work to develop the ordinance.

This is not a request from intermunicipalities nor, *a fortiori,* from mayors and it does not seem necessary to us to provide such a measure before having redefined the tools for combating substandard housing.

**Mr. Robin Reda.** I take advantage of this amendment to express my satisfaction at seeing amendments relating to penalty payments adopted. During the examination of the bill from the Democratic and Republican Left group relating to slumlords, the head of the La République en Marche group explained to us in the Economic Affairs Committee that the question of fines was entirely settled by the ALUR law and that there was no need to return to it. I thank you for reconsidering this position because the system is completely inapplicable today.

Regarding this amendment, I question the systematic transfer of police powers from the mayor to which the bill encourages, which encourages an intercommunal logic in matters of housing. It largely prevails in terms of engineering and shared services to combat substandard housing. Let us remember, however, that it is the mayor who is on the front line for everything relating to public health. It does not seem appropriate to me not to allow municipalities to collect the proceeds from fines when they want police powers to remain in the hands of the mayor. This is a question to consider before the session.

*The Commission* ***adopted*** *the amendment.*

*Then it issues a* ***favorable opinion*** *on the adoption of amended article 58 .*

*After article 58*

*The Commission examines, in joint discussion, amendment CL43 of Ms Caroline Abadie and amendment CL57 from the draftsman.*

**Ms. Caroline Abadie.** Since 2014, the ALUR law has allowed municipalities and EPCIs to define geographical zones, categories of housing or real estate complexes as “degraded housing zones”. This

qualification imposes certain obligations on the lessor, in particular the need to obtain prior authorization for rental. However, it appeared, during the hearings, that certain municipal services were charging landlords for processing their request. This amendment aims to regulate the setting of this

invoicing by decree of the Council of State so that it does not exceed 10% of the amount of the rent.

**Mr. Guillaume Vuilletet, draftsman.** My position is more radical: my amendment aims to prohibit any billing by municipalities for this service which must be free. Town halls do not charge for building permits, I don't see why they could charge for rental authorizations.

**Ms. Caroline Abadie.** I prefer the radicalism of the rapporteur and withdraw my amendment.

**Mr. Robin Reda.** The rental authorization relates to the structure of the accommodation and its habitability and not to the quality of the lessor, which is a gap if we want to be able to identify potential slumlords. It would be good to review this system.

*Amendment CL43 is **withdrawn** and the Commission **adopts** the amendment CL57.*

*Finally, it issues a **favorable opinion** on the adoption of all of the provisions before it, **modified.***

**PEOPLE HEARD BY THE RAPPORTEUR**

ÿ **Ministry of the Interior - Directorate General for Overseas Territories**

ÿ Mr. Étienne Desplanques, Deputy Director of Public Policies

ÿ Mr. Paul-Marie Claudon, assistant to the deputy director of public policies

ÿ **Ministry of Justice - Directorate of Civil Affairs and Seal**

ÿ Ms. Pascale Compagnie, Deputy Director of Economic Law

ÿ Ms. Marie Walazyc, head of the real estate and environmental law office

ÿ Ms. Claire Berger, deputy head of the real estate and environmental law office

ÿ Mr. Emmanuel Laforêt, deputy head of the constitutional law and general public law office

ÿ Ms. Audrey Ferre, editor at the personal law and family

ÿ **Ministry of Territorial Cohesion**

Territorial Cohesion Cabinet:

ÿ Mr. Samuel Deguara, deputy chief of staff

ÿ Mr. Koumaran Pajaniradja, construction advisor

ÿ Mr. Jérôme Masclaux, deputy director, in charge of the city, town planning and accommodation

ÿ Ms. Rachel Chane See Chu, housing advisor

General Directorate of Local Authorities (DGCL):

ÿ Mr. Frédéric Papet, Deputy Director of Skills and Local Institutions

ÿ Ms. Marie-Lorraine Pesneaud, head of the legality control office and legal advice

ÿ Ms. Axelle Chung To Sang, Deputy Head of the Legality Control and Legal Advice Office

ÿ Mr. Fabien Garret, responsible for studies on the responsibilities of elected officials

ÿ Mr. Stéphane Monet, head of the office of state land, town planning, roads and housing

ÿ Mr. Lionel Beaugad, deputy head of the office of state land, town planning, roads and housing

ÿ Ms. Émilie Revest, urban planning researcher

Directorate of Housing, Town Planning and Landscapes (DHUP):

ÿ Mr. Paul Delduc, general director of planning, housing and nature

ÿ Mr. Arnaud Longe, assistant to the deputy director

ÿ Ms. Odile Baumann, office manager

ÿ Ms. Laetitia Conreaux-Mantziaras, state architect and town planner

ÿ Mr. Vincent Montrieux, QV sub-directorate

ÿ Mr. Julien Le Cronc, project manager

ÿ **Interministerial delegation for accommodation and access to housing**

ÿ Mr. Sylvain Mathieu, interministerial delegate for accommodation and access to housing

ÿ Mr. Benoît Linot, “accommodation/housing” project manager

ÿ **Deposit and consignment office**

ÿ Ms. Marianne Laurent, director of loans and housing

ÿ Mr. Michel-François Delannoy, director of the CDC Cœurs de City - Network and Territories Department

ÿ Mr. Philippe Blanchot, director of institutional relations

ÿ **National public establishment for the development and restructuring of commercial and artisanal spaces**

ÿ Ms. Valérie Lasek, general director

ÿ Ms. Marie Krier, innovation manager

ÿ **National Commercial Development Commission - General Directorate companies**

ÿ Ms. Isabelle Richard, deputy director of commerce, crafts and restoration

ÿ **National Housing Agency (ANAH)**

ÿ Mr. Christian Mourougane, Deputy Director General in charge of policies intervention

ÿ **National Agency for Urban Renewal (ANRU)**

ÿ Mr. Nicolas Grivel, director

ÿ Mr. Damien Ranger, Director of Institutional Relations

ÿ **Housing action** (*)

ÿ Ms. Vanina Mercury, Director of Strategy and Finance

ÿ Ms. Valérie Jarry, director of institutional relations

ÿ **Superior Council of Administrative Tribunals and Administrative Courts of Appeal (CSTACAA)**

ÿ Ms. Corinne Ledamoisel, general secretary of the administrative courts and courts of appeal

ÿ **General Commission for Territorial Equality (CGET)**

ÿ Mr. Serge Morvan, general commissioner

ÿ Ms. Caroline Larmagnac, cabinet director

ÿ Mr. Jean Guiony, project manager

ÿ **General Council for the Environment and Sustainable Development (CGEDD)**

ÿ Mr. Pierre Narring, bridge, water and forest engineer, “housing, social cohesion and territorial development” section

ÿ **Association of Mayors of France**

ÿ Mr. Sylvain Bellion, head of the “city urban planning and habitat” department

ÿ Ms. Nathalie Fourneau, urban planning advisor

ÿ **Association of rural mayors of France**

ÿ Mr. Alain Castang, president of the rural mayors of Dordogne, mayor of the commune of Rouffignac-de-Sigoulès

ÿ **Social Union for Housing (USH)** (*)

ÿ Ms. Marianne Louis, general secretary

ÿ Ms. Francine Albert, advisor for relations with Parliament

ÿ **Auchan (*)**

ÿ Mr. Paul Hugo, responsible for institutional relations

ÿ **Carrefour (*)**

ÿ Mr. Alain Gauvin, Executive Director of Legal and Regulatory Affairs

ÿ Ms. Nathalie Namade, director of public affairs

**Joint hearings with the Economic Affairs Committee**

ÿ **Assembly of French Communities (AdCF)**

ÿ Ms. Corinne Casanova, vice-president, vice-president of the community Grand Lac (Auvergne-Rhône-Alpes)

ÿ Mr. Jean-Paul Bret, member of the board of directors, president of the community of Pays Voironnais (Auvergne-Rhône-Alpes)

ÿ Mr. Nicolas Portier, general delegate

ÿ Mr. Philippe Schmit, general secretary

ÿ Ms. Montaine Blonsard, responsible for parliamentary relations

ÿ **Urban France Association**

ÿ Mr. Olivier Carré, mayor of Orléans, president of Orléans metropolis

ÿ Mr. Emmanuel Heyraud, director of urban development

ÿ Mr. Philippe Angotti, deputy general delegate

ÿ **Mr. André Marcon, author of the report on the commercial revitalization of small and medium-sized towns, accompanied by:**

ÿ Mr. Bernard Morvan, president of the National Clothing Federation

ÿ Mr. Gontran Thüring, representative of the National Council of Centers **(*)** commercial (CNCC)

ÿ Mr. Vincent Ferat, general director of Shopping Center Company (SCC) ÿ Mr.

Jean-Louis Coutarel, architecture and urban planning project manager at the General Commission for Territorial Equality (CGET) of the Massif Central

ÿ **Union of Real Estate Unions (UNIS)** (*)

- ÿ Mr. Christophe Tanay, president
- ÿ Mr. Éric Brico, deputy president
- ÿ Mr. Géraud Delvolvé, general delegate

ÿ **National Real Estate Federation (FNAIM)** (*)

- ÿ Mr. Jean-Marc Torrollion, president
- ÿ Mr. Loïc Cantin, vice-president

ÿ **Plurience (*)**

- ÿ Mr. Olivier Nivault, President, Managing Director of Crédit Agricole real estate
- ÿ Mr. Jean Michel Camizon, vice-president, president of Dauchez Immobilier

*(*) These interest representatives have registered in the register of the High Authority for the transparency of public life, thus committing to a process of transparency and compliance with the code of conduct established by the Office of the 'National Assembly.*