

The Digital Building Permit in Algerian Legislation

Cylia Hamache¹, Djelloul Haidour², Noureddine Hairech^{3*}

^{1,2,3}Faculty of Law and Political Science, University of Mascara, Algeria.

Keywords:

Building permit,
Digital decision,
Digital platform,
Administration.

Abstract. In light of the digital transformation taking place in Algeria within the administrative sector, a digital platform for urban planning permits has been created and is managed by the local authorities responsible for municipal affairs. The aim is to simplify and facilitate the procedures for obtaining urban planning documents, particularly the building permit, in order to reduce the phenomenon of widespread informal construction, to reinforce democratic governance, and to eliminate bureaucracy. However, the issuance of a digital building permit depends on the applicant's choice and the method used to submit the application. If the submission is made in paper form, the permit is delivered in paper format; whereas if the submission is made through the digital platform, the permit is delivered digitally. The purpose of studying this topic is to clarify the procedures for obtaining the digital building permit, the potential issues that may arise from it, the guarantees granted to the applicant in case the administrative authority explicitly or implicitly refuses to issue the permit or withdraws it after issuance, as well as the powers of the administrative judge in reviewing digital decisions related to building permits.

1. INTRODUCTION

Algeria, like many other countries, has paid considerable attention to urban planning and development from independence to the present day, in an effort to regulate construction activities, which continue to expand significantly. To this end, Law No. 90-29 on Urban Planning and Development, along with its implementing decrees, was enacted. This legislation marked the beginning of a new and decisive phase in adopting a modern approach aimed at regulating urban activities by establishing rules and mechanisms for prior administrative control over such activities. This was achieved by imposing administrative permits on all urban development operations, with the objective of achieving balance and harmony between individuals' private interests in exploiting their property through construction projects and the public interest, which requires preserving the aesthetic character of cities, architectural heritage, and protecting agricultural land from encroachment. Accordingly, the building permit constitutes an exception to a general freedom—namely the freedom to use one's property, specifically the right to build, which is subject to administrative oversight.

The building permit is considered the most important tool used by the State to ensure balance between the administration's authority to exercise regulatory control and individuals' freedom to use their property. It operates as a legal barrier requiring individuals to obtain an administrative decision from the competent authority before commencing construction work. The building permit is therefore a mechanism of prior administrative oversight over urban development activities and differs from other permits in that it is issued only upon the request of the concerned party.

Given that the permit is an administrative decision issued at the request of the applicant, and in light of the ongoing digital transformation, the use of electronic public services has become indispensable for improving services provided to citizens in the most efficient manner possible. The Algerian legislator has thus established a digital platform for urban planning permits at the Ministry responsible for local authorities. Through this platform, individuals wishing to obtain an urban planning permit can submit their application electronically along with the required documents. The file is reviewed, and the decision is issued through the same platform. Among all urban planning permits, the building permit remains the most requested.

The reasons that led us to choose this topic stem from the significant importance of the building permit, which enables individuals to construct buildings as a fundamental means of exercising their property rights. Additionally, the wide spread of illegal construction has prompted the State to simplify and facilitate procedures for obtaining permits by creating a digital platform for urban planning documents.

The importance of this topic also lies in its connection to the constitutionally protected right to property. Through building permits, the State seeks to regulate and supervise individuals' urban activities on their real estate in accordance with the law, with the aim of reducing uncontrolled construction, which became widespread after 1990 due to the security conditions Algeria experienced. The increasing reliance on digitalization in granting urban planning permits further reinforces the relevance of this topic.

To understand the role and importance of the digital building permit in achieving balance between individuals' right to use their real estate on the one hand, and the administration's authority to protect the aesthetic public order of cities and safeguard agricultural land, as well as historically, culturally, coastal, and tourist-classified areas on the other hand—and in light of the inherent tension between authority and freedom—we pose the following central question:

To what extent can the digital building permit achieve balance between individuals' freedom to use their property in the field of urban development and the requirements of protecting public order within the dialectical relationship between authority and liberty?

To answer this question, we will examine the procedures for issuing the digital building permit and the administrative judiciary's oversight of its granting, refusal, or withdrawal, using the descriptive-analytical methodology that aligns with the nature of the issue under study.

Section One: Issuance of the Digital Building Permit

The Algerian legislator has established a set of procedures and regulations that individuals must comply with before initiating any construction activity. These procedures enable applicants to obtain a permit from the competent administrative authority, which lifts the legal restriction on the exercise of property rights. This mechanism aims to prevent construction on agricultural land or protected zones, counter the phenomenon of informal construction that distorts aesthetic and architectural heritage, and ensure the rational use of real estate. Therefore, the legislator has required obtaining a building permit prior to the construction of any structure, whether in urban areas or in designated special zones.

In light of the digital transformation underway within the Algerian administration—intended to simplify administrative procedures and provide services more efficiently—the law now allows urban planning permits, including the building permit, to be requested through a digital platform.

First Requirement: Procedures for Issuing the Digital Building Permit

To curb the spread of informal construction, the Algerian legislator stipulated in Executive Decree No. 24-247 that applications for urban planning permits, including building permits, may be submitted either in paper form or via the digital platform. The permit is then delivered to the applicant according to the method used for submission. Thus, when the application is submitted via the digital platform, the competent administrative authority issues a digital decision granting the building permit, postponing it, or refusing to grant it, and the decision is delivered electronically to the concerned party.

Accordingly, this section addresses the procedures for submitting the application and the required documents electronically, followed by the mechanisms for electronic issuance, refusal, or postponement of the permit.

Subsection One: Procedures for Obtaining the Building Permit in Urban Areas

The Urban Planning and Development Law requires obtaining a building permit for the construction of new buildings, regardless of their intended use, as well as for extensions of existing structures and modifications affecting load-bearing walls, the construction of solid supporting walls, or fencing.

Given the importance of the permit in monitoring construction activities, the legislator has expanded the scope of works requiring its issuance before commencement. It is now mandatory for any construction of a new building or the transformation of an existing one when the planned works involve changes to the floor layout, dimensions, façade, use or purpose of the building, load-bearing structure, or shared networks crossing the property.

Since the legislator has obligated individuals to obtain a prior permit—whether paper-based or digital—in order to exercise their right to build, applicants must submit a request accompanied by the required documents to the competent administrative authority. This authority decides whether to grant or deny the permit after completing the review and verification of the application file. (Azri, 2008, p. 19)

First: Submitting the Application for Obtaining the Digital Building Permit

The application is the essential element that prompts the issuance of the administrative decision lifting the restriction on the exercise of property rights. It is a necessary procedural step, as the permit cannot be issued without a request submitted by the concerned party. This requires clarifying who is legally entitled to submit the application through the digital platform.

Applicant's Legal Standing

For the application to be admissible, it must be submitted by the owner, or their authorized representative, or a tenant who has been granted permission by the owner, or by the body or authority to which the land or building has been allocated. A person holding a registered and published possession certificate (certificate of possession) at the Land Registry may also obtain a building permit.

1. Content of the Application

In addition to providing a copy of the document proving the applicant's legal standing (a copy of the ownership deed, possession certificate, power of attorney, or the administrative act allocating the land or building), the request must be accompanied by the following files:

a. Administrative File

This file must include the subdivision permit reference for buildings planned on plots designated for housing or other purposes, the certificate of operability, and—when the construction concerns the establishment or expansion of industrial or commercial facilities classified among dangerous, unhealthy, or disturbing activities—the application must be accompanied by the authorization issued by the competent authority.

b. Architectural File

This file includes a site plan at an appropriate scale specifying the project's location; a mass plan drawn to a scale depending on the size of the plot showing (the boundaries and area of the plot, the type, height, or number of floors of adjacent buildings, the height and number of floors of existing and planned buildings on the plot, and the allocation of built and unbuilt areas). It also includes design plans drawn to a scale corresponding to the building specifications showing the internal layout of various levels and technical rooms, as well as a memorandum containing the descriptive and estimate report of the works and the completion schedule.

c. Technical File

This file must include a civil engineering study prepared and signed by an accredited civil engineer specifying the description of the building's structural framework, the dimensions of the structural components, and design plans of the structures at the

appropriate scale. These plans must be mandatorily stamped by the National Technical Control Authority when the project involves residential collective buildings or public-use buildings.

The memorandum must also include necessary diagrams specifying:

- Number of workers and reception capacity of each facility;
- Construction method of roofs and materials used;
- Concise description of electricity, gas, heating, potable water supply, sanitation, and ventilation systems;
- Wastewater drainage system plans;
- Fire prevention and emergency equipment.

The technical file must also contain a site vulnerability inspection report completed jointly by the architect and civil engineer who prepared the file.

2. Submission of the Application

The application for the building permit and its attached files must be submitted through the digital platform, in all cases, to the President of the Municipal People's Assembly (P/APC) of the municipality where the land is located.

Second: Issuing the Digital Decision Related to the Building Permit

Once the applicant submits the request in accordance with legal requirements, the competent administrative authority is obligated to examine the file and issue its decision. It is therefore necessary to identify the authority responsible for issuing the decision, the method of reviewing and investigating the file, and the final decision-making process.

3. Competent Authorities for Granting the Building Permit

Under Algerian law, the authority responsible for issuing the building permit is one of the following, depending on the scale and significance of the construction project:

- The President of the Municipal People's Assembly (P/APC)
- The Wali (Governor);
- The Minister in charge of Urban Planning.

a. The President of the Municipal People's Assembly (P/APC)

The P/APC issues all permits related to construction projects. This is done either in their capacity as the municipal representative, in which case it applies to all construction projects located within an area covered by the land use plan, except for those falling under the competence of the Wali (Governor) or the Minister in charge of Urban Planning. In such cases, the P/APC must provide the Wali with a copy of the permit as part of supervisory oversight. These permits include projects for individual housing units, as well as collective housing projects with a total number of units equal to or fewer than two hundred (200).

Alternatively, the P/APC may act in their capacity as a representative of the State in areas where no land use plan exists. In this case, the P/APC must consider the Wali's opinion before issuing the decision, as the authority is then subject to presidential oversight.

b. The Wali or the Deputy Wali, as the Case May Be

The Wali is competent to grant building permits for industrial and tourist investment projects, as well as for public or private facilities of local benefit; collective housing projects exceeding two hundred (200) housing units; and construction works, buildings, and facilities executed on behalf of foreign states or organizations. The Wali also oversees facilities for the production, transmission, distribution, and storage of energy and water within the territory of the wilaya.

The Deputy Wali, on the other hand, is competent to grant building permits for industrial and tourist investment projects, and for public or private facilities of local benefit located within the administrative district. This includes collective housing projects with more than two hundred (200) and fewer than six hundred (600) housing units.

c. The Minister in Charge of Urban Planning

The Minister is responsible for projects of industrial and tourist investment, and for public or private facilities of national interest, as well as facilities for the production, transmission, distribution, and storage of energy and water located across the territories of two or more wilayas.

It is noteworthy that the latest amendment to Article 49 of the Executive Decree defining the procedures for preparing urban planning permits transferred the competence for issuing building permits related to construction works, buildings, and facilities executed on behalf of foreign states or organizations, as well as collective housing projects exceeding six hundred (600) units, from the Minister in charge of Urban Planning to the Wali.

4. Examination of the Application

After the application is submitted to the competent President of the Municipal People's Assembly, the latter forwards the file to the State services responsible for urban planning at the wilaya level. If the application concerns buildings for industrial or commercial use or those intended for public reception, the file is also sent to the Civil Protection services.

The application file is sent to the relevant consulting authorities through their representatives at the single-window service within eight (8) days following the date of submission. The municipal single-window service makes a decision on building permit applications within fifteen (15) days following the submission date. When the issuance of the permit falls under the competence of the Wali or the Minister in charge of Urban Planning, the President of the Municipal People's Assembly forwards the application file, accompanied by the opinion of the municipal urban planning services, to the State urban planning authority for a conforming opinion within eight (8) days following the submission of the application. The file is then prepared by the single-window service of

the wilaya or administrative district, as the case may be, which issues a decision within fifteen (15) days from the date of submission, after sending the file to the consulting authorities through their representatives.

5. Issuance of the Digital Decision Related to the Building Permit

Once the file has been studied and verified, the competent administrative authority issues its decision, either granting the permit, refusing it, deferring the decision, or potentially remaining silent regarding the application.

a. Digital Decision Granting the Building Permit

If the application meets the legal requirements, the administrative authority issues a decision approving the permit and notifies the applicant via the President of the Municipal People's Assembly through the digital platform, which is managed by the Ministry in charge of Local Authorities. This must be done within twenty (20) days following the date of submission. The decision is made public by publishing a copy at the Municipal People's Assembly to allow anyone to review the supporting documents of the application file. This publication lasts for one year and one month.

b. Digital Decision Refusing the Application

The application is refused if the project is inconsistent with the approved or pending land use plan that has passed the public inquiry stage, or if it is planned on subdivided land in violation of subdivision permit rules. The competent administrative authority may also refuse the permit if it considers the construction project non-compliant with the guidelines of the urban planning and development plan and/or the provisions established by the general urban planning rules, in municipalities lacking a land use plan or equivalent documentation. In all cases, the authority must justify its refusal in writing.

c. Deferral of the Decision

The administrative authority may defer the decision if the plot is within an area under study for urban planning, provided that a decision is made within a maximum period of one year.

d. Silence of the Administration

The Algerian legislator has not explicitly stipulated the consequences of administrative silence regarding an application within the specified period. However, the law obliges the President of the Municipal People's Assembly to notify the applicant in all cases of the digital decision granting the building permit and to publish a copy at the assembly. This ensures that the permit decision is always explicit and documented, allowing the necessary procedures to be followed, especially since the publication concerns the right of third parties to access the application file.

Subsection Two: The Digital Building Permit in Special Areas

Due to specific considerations—such as natural, cultural, historical, civilizational, touristic, agricultural, or economic factors—some sites and areas are classified as protected zones, for which special laws are established to ensure their protection. This includes the requirement to obtain prior authorization from the competent authorities before commencing construction works. Among these protected areas that require special procedures for granting building permits are:

First: Digital Building Permit in Agricultural Lands and Lands Designated for Agricultural Use

The Algerian legislator defines agricultural lands and lands designated for agricultural use as: *“any land that produces, through human intervention annually or over several years, a yield consumed by humans or animals, or used in industry either directly or after processing.”*

Agricultural lands are classified into four categories: very fertile lands, fertile lands, moderately fertile agricultural lands, and low-fertility agricultural lands.

The legislator considers very fertile lands and fertile lands as protected, and construction on them is generally prohibited. However, an exception exists: permits may be granted for buildings that are necessary and vital for agricultural exploitation, as well as for residential buildings, provided that such construction increases the productive capacity of agricultural enterprises.

Regarding the procedure for granting the building permit, the application can be submitted through the digital platform. The permit is granted by the President of the Municipal People's Assembly (P/APC) when a land use plan exists. In the absence of such a plan, the P/APC grants the permit after consulting the State service responsible for agriculture at the wilaya level. The permit specifically applies to:

- Buildings and facilities necessary for irrigation and agricultural exploitation.
- Buildings and facilities of national interest or necessary for collective utilities.
- Modifications to existing buildings.

The legislator has established special provisions for construction on agricultural lands and adopted specific criteria that vary according to the purpose of the construction and the potential of the land. A distinction is made between buildings intended for facilities and those intended for residential use.

For buildings intended for agricultural facilities, the area of the plot occupied by the necessary structures related to agricultural exploitation must not exceed one-fiftieth (1/50) of the total land area when the property is less than five (5) hectares. This allowable area increases by fifty square meters (50 m²) for each additional hectare. (Habba, 2010, p. 328).

For residential buildings, the area of the plot on which residential constructions may be authorized is determined as follows: If the total area of the agricultural property is less than five (5) hectares, the portion allocated for residential buildings must not exceed one two hundred and fiftieth (1/250) of the total area. An additional twenty square meters (20 m²) is added to the authorized building area for each additional hectare if the total property area ranges between five (5) and ten (10) hectares. If the total property area exceeds ten (10) hectares, an additional ten square meters (10 m²) is added for each hectare.

The legislator's aim is to protect agricultural lands—particularly very fertile and fertile lands—from urban encroachment due to their significant economic and social importance.

Second: Building Permit in Forested Lands

In its efforts to preserve forest resources, the legislator requires obtaining prior authorization from the Ministry in charge of Forests for any construction within or near national forest lands. This restriction applies to all types of buildings, whether for commercial activity or residential purposes.

No workshop for wood production, storage facility for timber or its by-products may be established within national forest lands or within 500 meters thereof without a permit from the competent authority. Similarly, no lime or gypsum kiln, brick or tile factory, construction material oven, or any unit with activities that may cause fire may be constructed within national forest lands or within one kilometer thereof without prior authorization from the Ministry of Forests. Additionally, no wood-processing plant may be established within national forest lands or within two kilometers thereof without a permit from the Ministry. (Hannouni, 2001, p. 62)

In addition, construction works intended for the administrations responsible for forest protection, and facilities aimed at increasing the forest's productive capacity, may only be carried out with prior authorization from the Ministry in charge of Forests. The building permit must be granted in accordance with the general rules stipulated in the law on urban planning and development and its implementing decrees.

Accordingly, an application for a building permit on forest lands can be submitted via the digital platform and issued according to the established procedure. However, referring to Article 1 of Executive Decree No. 24-247, the digital platform for urban planning permits is managed by the Ministry in charge of Local Authorities, and only the services responsible for urban planning are allowed access. There is no provision granting access to the forest authorities; therefore, they cannot use the platform. This means that applications and supporting documents for building permits on forest lands must be submitted in paper form only. (Habba, 2010, p. 329)

Second Requirement: Legal Effects Resulting from the Granting of the Digital Building Permit

Once the administrative authority verifies that the conditions and procedures legally required for the permit application are fulfilled, and after ensuring that the application file meets all legal and procedural requirements, it issues a digital decision authorizing the applicant, via the platform, to commence construction. The applicant is required to comply with all applicable legal and regulatory rules, which places them in a privileged position compared to those who have not been granted authorization. This authorization entails rights and obligations that the beneficiary must observe, and the role of the administration does not end with the issuance and delivery of the permit; rather, it continues until the completion of the construction.

Subsection One: Administrative Obligations Toward the Beneficiary of the Digital Permit

The relationship between the administrative authority and the permit holder continues until the completion of the works. This is due to the fact that the restrictions imposed on individuals under urban planning contracts are intended to achieve a balance between public interest and the rights and freedoms of individuals. The competent authority can only issue the permit upon the request of an interested party. Granting the permit enables the holder to proceed with construction while adhering to the obligations imposed on them. The administration is responsible for monitoring compliance, thereby ensuring that the content of the permit is respected and that all legal and regulatory rules are followed.

First: Obligation to Issue the Building Permit According to the Submitted Application

The permit is issued through an explicit and positive decision, not implicitly or negatively. Consequently, if the administration does not respond to the submitted application within the legally prescribed period, this is considered a refusal to grant the permit, and the applicant is prohibited from commencing construction at the end of the time allowed for the administration to respond. Conversely, when the legal conditions are met and the procedures are properly followed, the administration must issue the building permit to the applicant. The administrative authority's power to grant urban planning permits is therefore constrained by the requirement to respect the legal conditions and procedures. (El-Saeed, 2008, p. 226).

Second: Powers of the Administrative Authority in Relation to the Beneficiary

The administration enjoys powers and competencies in relation to the permit holder. These powers fall within the framework of its supervisory role to maintain order, which is not limited to preventive oversight—i.e., ensuring that legal conditions are met before issuing the permit—but extends until the completion of construction. This is intended to ensure compliance with the procedures and rules necessary for construction. In general, this supervision includes:

1. The Right to Request Presentation of the Building Permit
The President of the Municipal People's Assembly, as well as the Urban Planning Police, have the right to visit construction sites and request to see the building permit, whether it is paper-based or digital.
2. Authority to Supervise Construction Works
Supervision of construction works is conducted through on-site inspections carried out by the President of the Municipal People's Assembly and qualified officers. This applies to all buildings under construction. They may perform any inspections deemed necessary, request technical documents related to the construction, and review them at any time. This supervisory authority is not a privilege but an official duty that must be exercised.

Subsection Two: Rights and Obligations of the Beneficiary of the Building Permit

The permit holder occupies a different legal position compared to other individuals, as the permit enables them to exercise their property rights and lifts the prohibition on construction, provided that no harm is caused to third parties. Consequently, obtaining the permit entails certain rights and obligations.

First: Rights of the Beneficiary

One of the most important rights arising from the issuance of the digital permit is the authorization to construct. The permit can also be transferred to a new owner in the event of the sale of the land. In such cases, the new owner must submit a request to the issuing authority, which updates the name of the beneficiary without the need to review the file anew.

Second: Obligations of the Beneficiary

These obligations include placing a legal notice at the construction site during the works. This consists of a visible rectangular board, at least 80 cm in size, showing the reference of the building permit, the type of construction, its height, the area of the plot, and the dates of commencement and completion of the works. The beneficiary must complete the construction within the deadlines specified in the digital permit, which vary depending on the size of the project. Failure to respect these deadlines results in the automatic annulment of the permit, and a new permit must be requested to resume the project. The construction must also comply with the specifications set forth in the permit.

Second Chapter: Judicial Oversight of the Digital Building Permit

Since the building permit is the legal means to achieve a balance between individuals' rights to exploit their property and the state's authority to regulate in order to preserve the aesthetic and architectural integrity, it must be subject to judicial oversight. The administrative court is constitutionally authorized to protect individual and societal rights. Given that the digital building permit constitutes an administrative act (i.e., an electronic administrative decision), the administrative judge is competent to safeguard individual rights and freedoms, embodying the principle of the rule of law in the relationship between the administration and individuals.

Urban planning contracts, in general, impose restrictions on the freedom to use property, and these restrictions must be subject to judicial review to limit potential abuse by the competent authority in granting, refusing, or withdrawing permits.

First Requirement: Judicial Review of the Legality of the Digital Decision Related to the Building Permit Application

Individuals may resort to the courts to challenge unlawful administrative decisions by filing an annulment lawsuit. Concerning the digital decision on a building permit application, the administrative authority may either approve the application, which could affect the rights of third parties, or reject it, thereby preventing the applicant from proceeding with construction. In the latter case, the applicant must resort to the courts to protect their interests.

Subsection One: Judicial Review of the Legality of the Digital Decision

In Algeria, the administrative judge is the natural arbiter over the administration in all actions it takes within the framework of exercising its regulatory functions (Skakni, 2011, p. 109). However, the administrative judge does not intervene on their own initiative. Stakeholders must file a lawsuit, as the administrative judge cannot review the actions of the administration spontaneously but must wait for the matter to be brought before them through a case filed by the concerned parties. (Al-Mubarak, 2009, p. 1).

First: The Interested Party in Challenging the Digital Administrative Decision Granting the Permit

To accept an annulment lawsuit against any administrative decision, the plaintiff must have a legitimate interest in its annulment. Since the building permit is classified as an individual administrative decision granting benefits to the person for whom it was issued, that person cannot challenge it, even if it is affected by illegality.

However, a third party who suffers harm from its implementation has a direct and personal interest in its annulment. Consequently, such a person may file a lawsuit before the administrative court requesting the annulment of the building permit if it is unlawful. The Algerian Council of State has previously recognized the neighbor's interest in challenging a building permit, particularly when its issuance is conditional upon not causing harm to neighboring properties. (Boudiaf, 2013, p. 33).

Second: Cases in Which a Third Party May File an Annulment Lawsuit Against the Digital Decision Granting the Building Permit

These cases represent the grounds for annulling a building permit, which do not differ from the general grounds for challenging administrative decisions. They may be contested on the following basis.

1. Violation of the Rules of Competence:

A lack of competence occurs when the issuer of the decision does not possess the legal authority to make it, and this authority belongs to another entity. For example, if the President of the Municipal People's Assembly issues a building permit for collective housing projects exceeding two hundred (200) units, while Article 49 of the Executive Decree on the preparation and issuance of urban planning contracts stipulates that the authority to issue such permits rests with the Wali. (Peiser, 2001, p. 213).

2. Defect in Form and Procedure

A defect in form occurs when the administration neglects the required formalities or carries them out in an unlawful manner. A judicial application of this principle can be found in the decision of the Algerian Council of State, Third Chamber, No. 03594, dated 14/01/2001, which upheld the appealed decision annulling the building permit issued to the appellant. The annulment was based on a formal defect, as the building permit had been signed by the Second Deputy of the President of the Municipal People's Assembly, rather than by the competent authority. (Boudiaf, 2013, p. 32).

A procedural defect occurs when the administration neglects the required procedures or carries them out unlawfully, such as granting a building permit to the applicant without consulting the competent authorities when such consultation is mandatory. A judicial application of this defect is found in the decision of the Algerian Council of State, No. 417, dated 16/07/2001, which upheld the decision of the Administrative Chamber of the Algiers Court of Appeal to annul the building permit on the grounds that it did not include the opinion of one of the advisory committees. (Boudiaf, 2013, p. 32).

3. Violation of the Law

This defect occurs when the competent authority issues an administrative permit in violation of a legal rule, whether the violation is direct, or results from a legal or factual error. For instance, the Algerian Council of State issued Decision No. 136223 on 19/09/2019, which considered a building permit defective because it did not comply with the urban planning rules, particularly regarding the required safety distances for essential facilities, thereby constituting a violation of the law.

4. Abuse of Power

This defect is considered an intentional flaw in administrative conduct and occurs when the administration uses its authority for unlawful purposes, either targeting objectives unrelated to the public interest or issuing a permit to achieve private interests. Among the judicial decisions annulling administrative permits for abuse of power is the French Council of State decision in the *Epoux Lebourcher* case, dated 20/07/1979. In this case, the Council annulled a permit granted by the Prefect of Sarthe for the construction of commercial centers for certain companies, as it was determined that the Prefect's decision aimed to serve specific private interests, thus constituting an abuse of authority. (Khaled Abdel, 2010, p. 285)

The Council also decided, on 03/05/1974, in the *Barthes* case, to annul a decision issued by the Prefect granting an individual a building permit that did not meet the legal requirements. The Prefect had made the decision for reasons unrelated to the public interest, thereby constituting an abuse of power. (El-Saeed, 2008, p. 467)

Section Two: Judicial Review of the Digital Administrative Decision Refusing to Grant a Building Permit

A digital administrative decision refusing to grant a building permit can be challenged before the administrative judge by the applicant who is dissatisfied with either the explicit or implicit refusal issued by the administration. The annulment lawsuit constitutes the sole mechanism for reviewing the legality of administrative decisions, whether positive or negative. However, questions arise as to whether the administrative judge can compel the administration to grant the building permit when issuing a ruling declaring the refusal unlawful, and whether the execution of the refusal can be suspended.

I. Annulment of the Digital Administrative Decision Refusing to Grant a Building Permit and the Possibility of Suspending Its Execution

The permit applicant may challenge a refusal that is unjustified, rendering the refusal unlawful and subject to annulment. This protects individuals from administrative arbitrariness. The administrative judge has the authority to issue an order to suspend the execution of the implicit administrative decision whenever urgency and seriousness are established.

Refusal or administrative inaction regarding requests submitted through the digital platform is considered a refusal to grant the permit, giving the applicant the right to contest the refusal. Proof of submission must be demonstrated through the receipt issued by the administration via the digital platform. The legislature's aim in establishing judicial review of both explicit and implicit refusal decisions is to protect individual rights from administrative abuse, prevent evasion of issuing decisions, and curb neglect or indifference to citizens' requests.

II. The Administrative Judge's Authority to Compel the Administration to Grant the Permit

The administrative judge's role is no longer limited to annulling administrative decisions; they can also issue orders compelling the administration to implement a judgment or comply with the law, based on the plaintiff's request. Such orders may be included directly in the judgment or issued subsequently. The judge may require public entities or authorities subject to their jurisdiction to take specific executive measures that were not previously requested during litigation or order the issuance of a new administrative decision within a specified period.

Consequently, the administrative judge may either direct the administrative authority refusing to grant the building permit to take a specific executive action or order a new investigation by resubmitting the file for review within a set period, as illegality may be rectified. Threatening fines may accompany this measure.

Section Two: Judicial Review of the Legality of Revoking a Digital Building Permit

The administration may issue a digital building permit and later realize that it was granted unlawfully due to a legal or technical error. This raises the question of whether the permit can be revoked, especially if construction has already begun, or if it was legally issued, whether it may be revoked for public interest or non-compliance by the beneficiary.

I. Judicial Review of the Administration's Authority to Revoke an Unlawful Building Permit

A digital building permit is considered an individual administrative decision and must comply with the conditions for validity of administrative decisions: issuance by a competent authority, in accordance with prescribed forms and procedures, lawful subject matter, and legitimate reasons. If these conditions are violated, the permit is defective, obliging the administration to rectify the situation to respect the rule of law.

If the permit is unlawful due to a legal or technical error, the issuing authority may revoke it within the judicial challenge period of four (4) months from the date of notification. After this period, the administration cannot cancel the permit and must seek judicial intervention. The Council of State confirmed this in decision No. 124604 dated 24/05/2018, stating:

"The provincial decree No. 425 dated 17/06/2013 issued by the Governor of Tizi Ouzou did not respect acquired rights and constitutes arbitrariness and abuse of power. The Governor cannot revoke or amend a decision issued nearly 11 months earlier"

without resorting to the judiciary, as established by judicial precedent."

Furthermore, the administration may not revoke a building permit as an administrative sanction in cases of non-compliance by the permit holder. Instead, the competent authority must document the violation and submit it to the judicial authority, which may decide compliance or partial/total demolition within prescribed deadlines. Non-compliance empowers the municipal council president or governor to enforce the decision at the offender's expense. In Council of State decision No. 123611 dated 22/03/2018, it was ruled:

"The administrative decision issued by the President of the Municipal People's Assembly to revoke a previously granted building permit is tainted with external illegality and must be annulled." (El-Saeed, 2008, pp. 132 - 135)

II. Judicial Review of the Legality of Revoking a Digital Building Permit for Public Interest

As a general rule, the administrative authority may revoke a building permit at any time if required by public interest. Its discretion is, however, limited by the prohibition of abuse of power or deviation from the purposes of public welfare. Revocation becomes unlawful if the authority acts to achieve objectives unrelated to public interest or beyond the legislative intent for granting the permit, even if such objectives nominally relate to public welfare. This principle is grounded in the legal doctrine of purpose limitation, which prohibits the administration from acting outside the legally prescribed objectives; failure to respect this principle renders the revocation subject to annulment by the administrative judge.

Conversely, if the revocation is genuinely motivated by public interest, such as preserving public order, it is deemed lawful, even if not issued by the initially competent administrative authority. However, if the administration fails to substantiate the claimed public interest, the administrative judge is empowered to annul the decision revoking the building permit. (Awabdi, 2005, p. 560)

2. CONCLUSION

The building permit is the legal tool adopted by the Algerian legislator to exercise administrative control in the urban sector, aiming to eliminate haphazard construction and preserve aesthetic and architectural harmony. However, in light of digital transformation, the Algerian legislator sought to facilitate and simplify procedures for project owners to obtain the permit. A digital platform was established, managed by the Ministry in charge of local authorities, through which requests for building permits can be submitted, processed, and delivered on the platform. The digital procedure follows the same requirements as the paper-based application, except for the number of copies required.

Through this study, the following conclusions were reached:

- The creation of a digital platform for submitting urban planning contracts, including building permits, contributes to simplifying administrative procedures and obtaining permits in the shortest possible time.
- The digital platform for urban planning contracts is managed by the services in charge of local authorities, granting access to the urban planning departments but excluding the services responsible for forestry, even though they issue building permits according to urban planning laws and their implementing decrees.
- The purpose of establishing a digital platform for urban planning contracts, including building permits, is to accompany digital transformation, consolidate democracy, and reduce bureaucracy.
- The digital building permit has the same legal value as the paper-based permit.
- Decisions related to building permits submitted through the digital platform are considered digital administrative decisions and are subject to appeal before the administrative judiciary.

Based on these conclusions, some recommendations can be proposed:

- Encourage applicants to submit building permit requests via the digital platform instead of the paper-based method by providing high-quality internet access across the country, thereby promoting digital equity.
- Enable all relevant services involved in issuing building permits to access the digital platform for urban planning contracts.
- The legislator should clarify the procedures for issuing digital receipts for building permits and specify whether the digital building permit should be published at the municipality by posting it at the People's Municipal Assembly or on the municipality's website.
- Since building permits are considered administrative decisions, the legislator should amend the Code of Civil and Administrative Procedures to address provisions related to digital administrative decisions, including specifying the date of effect and the commencement of the judicial appeal period.

REFERENCES

- Al-Mubarak, A.-S. I. (2009). *Interest in the action for annulment*. Modern University Press.
- Awabdi, A. (2005). *The general theory of administrative disputes in the Algerian judicial system: Theory of administrative litigation* (4th ed., Vol. 2). University Publications Office.
- Azri, E.-Z. (2008). Procedures for issuing construction and demolition decisions in Algerian legislation. *Al-Mofakker Journal*, (3), 19.
- Boudiaf, A. (2013, January). Urban planning disputes in Algerian law: Building and demolition permits. *Journal of Jurisprudence and Law*, (33).
- El-Saeed, A. A.-K. (2008). *Administrative police* (Vol. 1). Dar Al-Fikr Al-Jami'i.
- Habba, A. (2010). The role of the building permit in protecting the environment and urban development. *Al-Mofakker Journal*, (6), 328.
- Hannouni, N. (2001). *Legal and institutional means for forest protection in Algeria*. National Office of Educational Works.
- Khaled Abdel, F. (2010). *Comprehensive guide on various types of permits* (Vol. 1). National Center for Legal Publications.
- Peiser, G. (2001). *Administrative litigation* (Vol. 12). Dalloz.
- Skakni, B. (2011). *The role of the administrative judge in protecting fundamental rights and freedoms* (Doctoral dissertation, University of Tizi Ouzou, Tizi Ouzou, Algeria).