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## **The plan of land use decentralised participatory tool between legal text and reality - case of the land use plan for the new urban residential area (NURA01) of the city of M'sila - Algeria**

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**Abstract.** The land use plan is one of the new reconstruction tools through which the Algerian State seeks to distribute roles between the central authority and the local community represented by the governorate and the municipality, respectively. The decentralization and the participation when preparing the land use plan help strengthen the dialogue between the state and population representatives, facilitate the decision-making and improve the management of local affairs, As a result, projects that elevate and meet the society requirements are of a higher efficiency. In this perspective, this research aims at identifying the indicators of decentralization and participation at the stage of preparation of the land use plan, and monitoring them in real based on a descriptive analytical approach. The results of this study demonstrated that there is unilateralism in the preparation of the land use plan through the existence of a prior intention from Municipality and of M'sila to impose their vision, while other Institutions are neglected.

**Keywords.** The land use plan, decentralization, participatory, public investigation, The audience

### **Introduction**

After the general state of failure that has afflicted many experiments and experiments in urban development in both developing and developed countries, since the end of World War II, which has makes participation the exit door proposed by many as an alternative, which has been fueled by the political transformations that characterize the contemporary world Since then [1], participation is a means of creating means and appropriate mechanisms for local citizens, as individuals and groups, to contribute to decision-making. decision-making processes, through local councils [2], which is a form of decentralization and participatory decision-making at the local leve and because the local administrator became obliged to respond in turn to the various demands of different social groups, guided by the right to adequate housing and the provision of related services, he became forced, even imperative, to seek new sources of funding. fulfill these obligations, which has prompted local authorities around the world to involve private actors. In the preparation and implementation of their policies related to urban development, by developing partnership models that achieve the common good and return to the investors with profit margins at the same time. [3]

There is no doubt that urbanisation and reconstruction programmes are characterized by a certain specificity, which is represented by the fact that they are an area of public intervention directly linked to the population, which makes them a sensitive area of management, because it is an area where what is technical meets the social and cultural values and positions that result from their interaction. [4] The interests of some parties may conflict with the urban organization accompanying the requirements of the plans and their repercussions on the construction rights that directly affect the freedom of disposition of a property, affecting its economic value.

Consultation and participation are mechanisms and tools that help build bridges to bring together two main actors in the construction of the urban environment, namely: the producers of the city (politicians, designers and administrative officials) and those targeted by these projects (citizens, inhabitants) to carry out programs, embody projects and strengthen social and political ties.[5]

Believing in the importance of consultation, which is one of the levels of public participation in the development of land use plans in Algeria, which has been consecrated by the Algerian legislator in the development of planes. This research paper attempted to demonstrate the role of consultation through the participation of inhabitants in the development of the land use plan, which has a direct relationship in the organization of the environment and the components of the urban field represented. in the built environment (housing, equipment of all kinds), and the inbuilt environment (roads, car parks, green spaces, children's play areas, public squares), and the extent of the effectiveness of the participatory approach during stages of preparation of the study Project

### **1. Research question**

Since the end of the 80s of the last century, the Algerian State has sought to bring about a profound change in all areas (political, economic, social, urban and environmental), and has paved the way for the emergence of decentralization and participatory decision-making and the management of local affairs, particularly in the urban area by developing new mechanisms and tools, including the land use plan.

The results of the study proved that there is unilateralism in the development of the latter and the existence of a prior intention to pass it on the part of the commune of M'sila. As for the rest of the departments and agencies, their participation did not go beyond mere consultation. In this sense, the research question aims to answer the following question: - What are the manifestations and indicators of decentralized participation in the development of the land use plan in the legal text, and what is the extent of its application in the field?

### **2. The importance of research**

The importance and usefulness of research is reflected in the identification of the land use plan as a critical local tool in the field of urbanization, reflecting the principle of participatory and decentralized decision-making and local governance. However, this principle and its reflection on the ground did not meet the needs of the population

### **3. Research objectives**

The research objectives are to:

- Attempt to identify the land use plan instrument, which is one of the decentralized national instruments of the Algerian State;

- Try to understand how the land use plan for the New Urban Residential Area (NURA01) is prepared and monitor the different parties involved according to the applicable legal texts and their application in the field.

- Identification of the most important concepts related to the study, such as participation, decentralisation, public survey and its relationship to the urban project and land use plan in Algeria;

#### **4 . Research methodology**

I rely on an analytical descriptive program with techniques and means to gather information in research A field form applied to a random sample of citizens was used. and comparative study programmes have been used in some cases, By addressing the subject in two main themes the concept of the land use regime and the process of decentralised participation and participation in the preparation of that regime have been defined in accordance with the relevant legal texts. The second concerned a field study of the land use plan for the new urban residential area (NURA01) of the city of M'sila, the follow-up of the various parties involved in its preparation, the analysis of the administrative documents of the regime, and the research was concluded by a simple comparison between the different parties involved in the process of preparing the device according to the legal texts adopted and the field (domain).

#### **5. Tools for preparation and reconstruction in Algeria**

As part of planning, urban planning guides and integrates sectoral economic, social and cultural development policies, which are of fundamental importance to reflect the objectives of the regional distribution of activities of the national economy, and aims to form basic tools. Preparation takes into account:

- Protection of the environment.
- Preservation of natural sites.
- Protection and restoration of historical monuments.
- Promotion of tourist and recreational sites.

Algeria's urban policy is based on the following tools:

##### ***5.1 The national spatial planning scheme***

The national spatial planning scheme reflects the future perspective of the occupation of the national territory in view of the long-term socio-economic and cultural development strategy. His duties include:

- Reflect specific choices regarding the preparation and organization of the national sphere
- Constitutes the evidentiary framework for the distribution of development work and the designation of its sites
- Identification of the rules adopted in the preparation of all national and multiple development programmes in their economic and field dimensions
- Establish cross-sectoral consultation and coordination frameworks between regions.

##### ***5.2 Regional land use planning***

It is a tool for streamlining and adapting the preparatory work contained in the national plan, ensuring the accuracy of choices and even reducing regional imbalances, creating complementarity and promoting development. It is prepared in the long term and for a period similar to that of the national plan.

### ***5.3 The development plan of wilaya***

The State Regional Preparatory Plan is a means of implementing the National Plan and detailing the State Regional Plan. It is prepared at the level of the National Agency for Urban Development. It ensures the implementation of the treatment and investment provided by the State.

- Map of the administrative boundaries of municipalities and districts.
- A physical map showing the most important terrain
- A climate map that helps the agrarian engineer in the selection of general agricultural products and trends, as well as the architect in the use and selection of building materials
- mapping of networks, roads, electricity, gas and concentration of industrial and village areas.

These are all important ways of knowing the social and economic needs of the population.

### ***5.4. Master planning and development***

The mapping scheme for construction and reconstruction is the instrument of field planning and urban management. Defines the basic orientations of the urban structure of the municipality or municipalities concerned, taking into account the preparation and development plans, and adjusts the reference formats of the land use plans.[6]

#### ***5.4.1. Objectives of the master planning and development***

The objectives of the master planning and development are to:

- PDAU defines the general distribution of land over the total territory of the municipality or group of municipalities concerned by sector.
- the extension of residential buildings and the centralization of the interests, activities and sites of large facilities and infrastructures.
- Identifies areas of intervention in urban tissue and areas to be protected.
- The field in which it operates is divided into sectors and knowledge as follows:
  - Sustainable sectors
  - Reconstruction areas
  - Sectors for future reconstruction
  - non-constructible sectors.

### ***5.5. The land use plan***

The land use plan is a tool for urban planning and urban management for the preparation and reconstruction Law no. 90/29 of 01 12-1990, to control the management of the urban and architectural quality of the fields by responding to the problems and choices, It occupies the last stage of the Algerian urban planning system and is a legal instrument that we can invoke before individuals any legal instrument of opposition. It was also of particular importance for local communities, as it was a good tool for decentralizing decision-making in the organization of the region.

#### ***5.5.1. Objectives of the land use plan***

The objectives of the land use plan are to:

- \* Identifying urban areas is an official document to regulate urban growth in the short, medium and long term.

Identify the main use of each area among the laws.

- \* Identification of road and transportation network.
- \* Identification of infrastructure networks.
- \* Identification of structured and updated neighbourhoods.
- \* Location identification for public equipment.
- \* Identify neighbourhoods, streets and sites to be protected and restored or renovated.
- \* Designation of farmland, forests to protect.
- \* Determine the scale of urbanization, such as spaces, height, sizes and construction

patterns.

- \* Identification of alignments.

In accordance with Article 31 of Law No. 90-29 of 1 December 1990 on construction and reconstruction, which stipulates that the land use plan defines in detail - in accordance with the guidelines of the planning and reconstruction regime - land use and construction rights Journal.[6]

### ***5.5.2. Content of the land use plan***

According to Article 18 of Executive Decree 91/178 of 28 May 1991, the land use plan consists of two types of documents:

- Written documents: a regulation.
- Graphic documents: diagrams and drawings.[7]

#### ***5.5.2.1. Written materials***

The written land use plan documentation is primarily a detailed material report to determine how the land use plan is managed by:

- the level of this report shows the different rules that govern how to treat the property for each homogeneous area, and the necessary precautions in the construction of permits, or prohibited buildings, then determine the building rights and how to use the property using the law of density, the land occupancy factor (COS) and the land take coefficient (CES), in addition to this is the exploitation of the property, identification of the system of built-in and non-built-in parts, as all materials signed on the report are known in the demonstration of the following building elements:

Points of sale and roads, network access, land mass characteristics, location of buildings for public and related roads, location of buildings for separation boundaries, location of buildings between them on a property, building height, project exterior, parking, empty spaces and green spaces.

#### ***5.5.2. 2. Documents graphiques***

The charts include:

Scale localization map: 2000/1, 5000/1, 500/1, 200/1 scale topographic map, highlighting two or more sections for project topography definition, 500/1 scale geotechnical map, current position map 500/1, 1000/1, 500/1, 1000/1 scale layout diagram (Construction sites for public facilities, areas to be protected) Urban construction plan 500/1, 1000/1, the latter reflecting the urban and architectural forms to be built for the targeted sector or several sectors.[8]

## **6. Decentralisation, Participation and public investigation**

Decentralization, participatory and public research are fundamental concepts of this study, so we must identify these concepts and provide them as follows:

### **6.1. Decentralisation**

According to Khaled al-Zaabi, decentralisation is a method by which the territory of the state is divided into units of a local concept, the Council of the European Union [9], as defined by the chab Tomah

Mansour as the division of administrative functions between the central government and elected or local administration. [10]

### **6.2. Participation**

Participation is a set of means and principles available to a group to make a decision or analyse a particular situation. so that everyone can express their opinion and engage in a debate so that the result or decisions become a real image of what the group has produced. [11]

### **6.3. Public investigation**

The omnibus inquiry is the procedure of a public inspector to unconditionally express his opinions and wishes about a project. It is therefore an important mechanism to contribute to the involvement of society in decision-making affecting its aspects of life and produces projects that meet its different needs.

## **7. Decentralised participation in the preparation of the land use plan in legal texts**

Participatory decentralization in the preparation of the land use plan is highlighted in three important phases: preparation, approval, review and amendment, as follows:

### **7.1. Indicators of participatory decentralisation during the preparation phase**

Preparation is the first phase of the completion of the land use plan, and indicators of decentralised participation are demonstrated by the action of the initiative to initiate its preparation, adoption and delimitation, followed by the general survey.

#### **7.1.1. Indicators of decentralised participation in the approval of the preparation of the land use plan**

At the initiative of the President of the Municipal People's Assembly or of the Presidents of the Municipal People's Councils, he decides to prepare a land use plan through a deliberation of the Municipal People's Assembly or the local people's councils concerned.

The land use plan is approved on the basis of the deliberation presented by the President of the Municipal People's Assembly in accordance with the system of procedure provided by Law 11/10. The deliberations include the publication of a statement on the participation of public administrations. Associations in Land Use Planning.[12]

The President of the Municipal People's Council, the Presidents of the Municipal People's Councils or the public intercommunal institution concerned shall inform in writing of the decision to draw up an occupation plan for the Presidents of the Chambers of Commerce, Agricultural chambers, professional organizations and local associations, which must have 15 days' notice. 15 From the date of receipt of the letter indicating whether they wish to participate in the preparation and appointing their representatives in case of admission.[13] After fifteen days, the President of the Municipal People's Council or the Presidents of the Municipal

People's Councils take a decision establishing the list of public administrations, Public bodies and interests or associations that have been invited to consult on the proposed land tenure regime. It is consulted that:

• **Public authorities at the wilaya**

Directorate for Reconstruction, Agriculture, Economic Organization, Irrigation, Transport, Public Works, Archaeological and Natural Buildings and Sites, Posts and Transport, Environment, Urban Development, tourism, industry and investment promotion, trade and water resources.

• **Public local authorities**

Energy distribution, transport, water distribution, real estate adjustment.

After approval of the preparation of the drawing, a decision is taken to delimit its environment, on the basis of a dossier consisting of a memorandum of submission, and the drawing prepared at the scale of the guideline for preparation and reconstruction.

**7.1.2 Indicators of decentralised participation during the public investigation**

The draft plan is presented for a sixty-day (60) public investigation, which is based on decisions of the municipal people's council. It opens a numbered and signed public register to make all comments and suggestions. All submissions can be sent directly to the commissioner of Investigation. The investigation file is then closed with the signature of the investigation commissioner.

This can be seen from the approval of the opening of the survey register, It is the intention and the will of the algerian legislator to involve the public in the elaboration of the land use plan in order to give a decentralised participation characteristic to the decision that meet the demands of society.[14]

**7.2. Decentralised sharing of indicators by approving the system**

At this stage, the procedure for validating the pattern of occupation of the territory is carried out under the deliberation of the municipal people's assembly, taking into account the observations of the president of the wilaya. The following stakeholders are informed:

- Competent or regional tutor.

State interests responsible for reconstruction, namely agriculture and chambers of commerce.

After the approval of the regime, the republic shall be made available to the republic by a resolution of the president of the municipal people's assembly indicating where and where the documents may be consulted, and a list of the written and graphic materials in the record available to the public.[15]

**7.3 . Decentralized sharing of indicators by reviewing and editing the plan**

The revision and adjustment phase is subject to the same stages as the preparation and validation phases, and therefore the decentralized sharing indicators in which they emerge are the same as those in the preparation and validation phases.

**8. Procedures for the preparation of the land use plan for the new urban residential area (NURA01) of the city of M'sila and monitoring of the various parties involved.**

Before studying the procedures for preparing the land use plan for the new urban residential area (NURA 01), it is necessary to present a site and some characteristics of the city of M'sila .

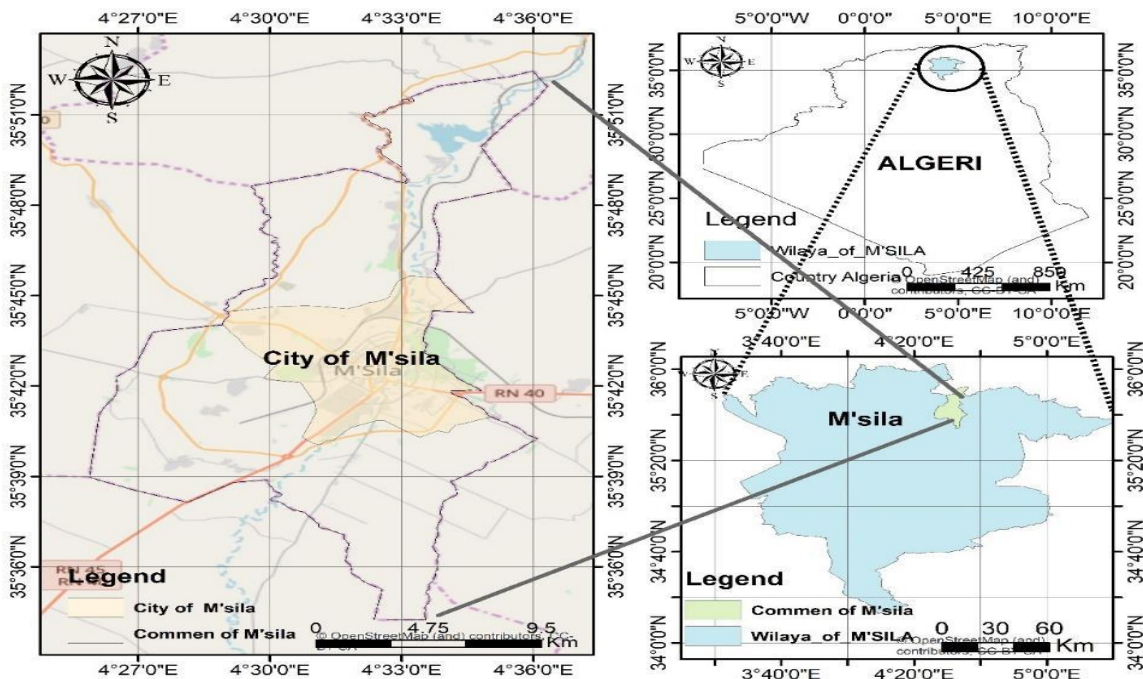
### 8.1 Presentation of the city of M'sila

The city of M'sila is located on the northwest side of the shatt al-Hodna basin, where it is bordered on the northern side by the al-Hodna mountain range, and on the southern side by shatt al-Hodna as shown in (figure 1), an intersection point for both national route 40, national route 45 and waterway (cane al-Qsob), which is one of the most important reasons why the city of M'sila. The city's area is estimated at 233 km<sup>2</sup>, with approximately 170990 inhabitants at the 2014.[16]

The city of M'sila is located in the northern part of Algeria, whose geographical coordinates N 4°32'49"E 7°42'35" [17], limited in the north by the semi-urban agglomeration of Buchemisa, in the south by agricultural lands, to the east by the municipality of Elmetarfa and to the west by the power station Draa El Hadja.

the land use plan for the new urban residential area (NURA 01), which is a model for this study in the M'sila.

Map N°01: Location of the town of M'sila



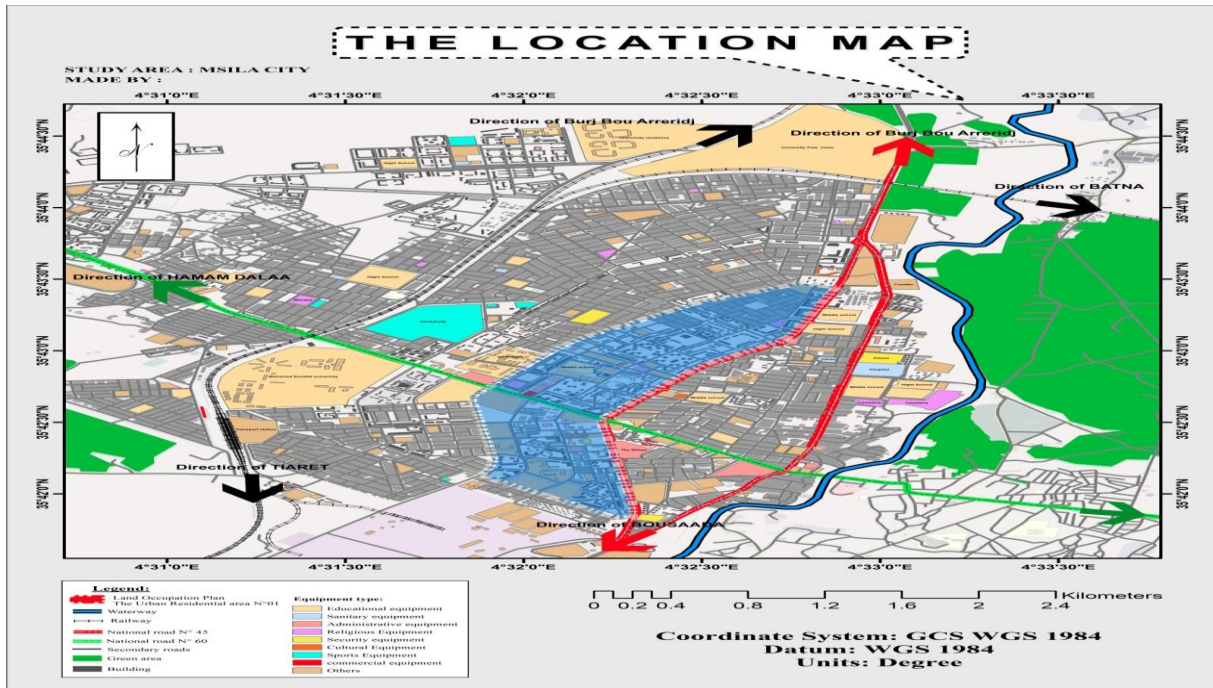
Source: Dahimi.S, et al, 2022

### 8.2. Presentation of the land use plan for the new urban residential area (NURA01)

The land use plan for the new urban residential area (NURA01) is an important strategic location, located in the center of the city of M'sila, and contains most of the amenities in the city, which has made it a great attraction for all residents of the state of M'sila, and is one

of the largest land use projects in the municipality of M'sila, with an estimated area 178.8 hectares.[18]

Figure 1. shows the location of the land use plan for the new urban residential area (NURA 01) M'sila



Source: Realization of Finder 2021 based on Google Map.

## 9. Indicators of participation and decentralisation in the land use plan for the new urban residential area (NURA 01) of the city of M'sila

To monitor the various departments and agencies involved in the preparation of the land use plan for the new urban residential area (NURA 01), the administrative file of its preparation consisting of copies of the deliberations and decisions relating thereto, In addition, the public inquiry was consulted. The minutes of the hearings held by the Directorate of Reconstruction of the State and the Municipality of Msila, as well as a report of the Governor of the Investigator and the minutes of the appeal study, They have also been examined to give a clear picture of the progress of its preparation, which can be summarized below:

### 9.1. Unilateral in the preparation of the project by the municipality of M'sila

What is noted in the preparation of the occupancy plan at the city level is that it is the municipality that is unique in this process of preparing the plan. Other relevant interests and bodies are limited to their participation in the expression of an opinion and, in some cases, are not linked to regime data.

The land use project for the new urban residential area (NURA 01) was initiated on 15/03/2001 at the initiative of the President of the People's Assembly of the municipality of M'sila, and was approved by deliberation no. 01/09 of the Municipal Technical Committee of M'sila without presentation to the other departments and bodies concerned, whose participation was limited to expressing an opinion or delaying the arrival of information on the file[19], which

reflects the municipality's previous intention to ignore the advice of the above-mentioned services and agencies under Act 10/10 on their participation in the development of land use plans and Table 1.

**Table 1.** Representation of the various departments and bodies whose participation was limited to the expression of an opinion or the absence of specific information in the preparation of land use plan no. 01 in the city of M'sila

The departments and agencies involved in the land use plan for the new urban residential area (ZHUN01) in accordance with article 52 of municipal law no. 11/10 and in accordance with article 07 of executive decree no. 91/178, Defines the procedures for preparing and adopting land use plans.	Type of participation
Directorate of Construction, Directorate of Agriculture, Economic Organization, Irrigation, Transport, Public Works, Buildings and Sites Archaeological and Natural, Postal and Transport, Environment, Urban Organization, Tourism, Industry and Investment Upgrade, Trade Management, Water Resources, Energy Distribution, Transport, Water Distribution, Real Estate Control	Participation was limited to expression of opinion only
Civil society organizations, heads of professional organizations and heads of local associations	Delayed arrival of information on the plan

Source: Based on a field visit to various departments and stakeholders involved in the preparation of Land Use Plan 01 in the city of M'sila 2021.

### 9.2. Public survey (weak public participation)

Pursuant to resolution No. 23/02 of 16/10/2002, the outline for the investigation was presented for 60 days (60) starting from 28/10/2002 to 27/12/2002, where public reception offices were allocated to record observations on the project and table N° (01) showing the number of comments submitted by the public weekly during the investigation period.

**Table 2.** Shows the number of observations submitted by the public per week during the survey period 60 days

Week Number	Number of observations from the public	Source of observations
1	0	/
2	0	/
3	0	/
4	0	/
5	1	/
6	1	the landowners
7	2	the landowners
8	3	the landowners
total	7	the landowners

Source: Reconstruction and Construction Directorate of M'sila with Research Treatment 2021. After consulting the observations in Table 1 recorded by the public (the audience here means: landlords, citizens, civil society) we noted the following:

- All observations recorded in recent weeks are for landlords only, and there are no comments from citizens. This is proof:

- Weak public information and delayed access to information.
- There is no real desire for the municipality to participate actively in the preparation of the plan.

### 9.3. Confirmation or refusal of the results of the public investigation

In order to have access to more specific information on the public's representations and to confirm or refute the previous analysis of the public inquiry, A land use plan field visit for the new urban residential area was conducted and:

- the establishment of a questionnaire for a random group of citizens (100 citizens and the 13 owners of the city of M'sila ), to determine whether they received information during the public inquiry period regarding the preparation of the land use regime for the new urban residential area, which we indicate in Table 2
- the establishment of a table showing the number of observations recorded by the public and taken into account in the plan for preparing the occupancy plan for the new urban residential area, which is presented in table 3.

**Table 3.** Shows public access to information during the General Survey period on land use plans for the new urban residential area (NURA01).

Audience Type Total	questionnaire for the public	Number of audiences receiving information	Number of audiences that did not receive information or arrive late
Citizens	100	5	95
Landlords	13	10	3

Source: Authors, 20022

**Table 4.** shows the number of public observations taken into account in the preparation of the land use plan for the new urban residential area (NURA01)

Public Type	Total number of public comments recorded during the general investigation period	Number of observations taken into account in the preparation of the land use plan n°01
Citizens	0	0
Landlords	7	1

Source: Reconstruction and Construction Directorate of M'sila with Research Treatment 2021. Reading tables 2 and 3 and the land use plan field visit for the new urban residential area (NURA01), it was found that:

Ten (10) owners who obtained the information during the general survey period were registered, while three (03) of them did not receive the information.

Five (05) citizens who received information during the survey period were registered, a very small number compared to the estimated 95 citizens who did not receive information.

This demonstrates the past results of delayed public access to information and the weakness of the public information process in preparing the plan.

- A score was recorded for owners, which was taken into account in the preparation of the scheme, a low figure compared to seven (07).

This confirms the validity of the previous conclusions on the refusal of the municipality to actively participate in the public, to marginalize its role in the preparation of the project and to have the prior intention to pass the project without consultation.

### 10. Results of the analysis and study

After examining the topic of land use as a tool for participatory decentralisation between legal text and reality in the field, The indicators of participation and decentralisation were addressed in their preparation in accordance with the relevant legal texts and their application in the field, the study concluded that:

- The municipality of M'sila unilaterally prepares a land use plan for the new urban residential area (NURA01).

- Other public services concerned by the participation and approval of the land use regime for the new urban residential area (NURA01) Directorate of Reconstruction, Directorate of Agriculture, Economic Regulation, Irrigation, Transport, Public Works, Archaeological and Natural Buildings and Sites, Post and Transport, Environment, Urban Development, Tourism and Investment Promotion, Trade Directorate, Water Resources, Energy Distribution, Transport, Water Distribution, Real estate control) ", its participation was limited to the expression of an opinion only after prior approval of the project by the Technical Committee of the liquefied municipality.

- the low participation of heads of professional organisations and local associations in the preparation of a land use plan for the new urban residential area (NURA 01) due to the delay in access to information.

- Low public participation (citizens, landowners) in the public survey on land use patterns for the new urban residential area (NURA 01) due to lack of access or delay in the delivery of information. Table 04 shows:

**Table 5.** Various parties involved in the preparation of the land use plan for the new urban residential area (NURA 01) in legal texts and field realities.

The departments and agencies involved in the preparation of the land use project for the new urban residential area (NURA 01) in accordance with article 52 of municipal law no. 11/10 and article 07 of executive decree no. 91/178, which sets out the procedures for preparing and adopting land use plans	Various parties involved in the preparation of the land use plan for the new urban residential area (NURA 01) in the field reality
M'sila Municipality	Unilateral in the preparation of the plan by the municipality of M'sila
Directorate of Construction, Directorate of Agriculture, Economic Regulation, Irrigation, Transport, Public Works, Buildings and Sites Archaeological and Natural, Postal and Transport, Environment, Urban Development, Tourism and Investment Promotion, Directorate of Commerce, Water	Her participation was limited to the expression of an opinion after the approval of the outline by the Technical Committee of the

Resources, Energy Distribution, Transport, Water Distribution, Real Estate Control	Municipality of m'sila in advance
Civil society organizations, heads of professional organizations, heads of local associations	Poor participation in the preparation and approval of the outline as a result of delayed access to information.
Citizens and landlords	Weakness Participation in the plangeneral survey as a result of lack of access or delay in the arrival of information

Source: Authors, 2022

### Conclusion

After study of this document, we can say that the land use plan is an urban plan through which Algerian legislators have contributed to the promotion of decentralized participation in decision-making. It is one way to integrate the public into planning and reconstruction decisions that meet the needs of society and improve living conditions.

However, the actual practice in the field was contrary to Algerian legislation ' In particular those related to public participation in the preparation of the occupation regime and its lack of awareness. Since the policy of unilateralism, indifference and marginalization undertaken by the municipality directly involved in the preparation of the plan has created a kind of aversion between it and the public on the one hand. The production of projects that do not stand up and do not meet the demands of society on the other hand, this led to irregularities in urban development in cities. And create many problems, including a change in urban appearance, and take a few empty spaces and turn them into private places.

To address this, Algerian legislators must take positive steps to reduce the Ministry's policy towards the general public and citizens, including:

- the enactment of special and clear laws obliging the municipality to organize awareness and awareness courses for citizens, in particular those related to urbanization
- Provide adequate information to the public in a timely manner, from preparation to review and amendment of the scheme.
- Refurbish Occupancy Pattern 01 and present it to the public, taking into account the public's observations and applying them in the field.

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