

ETABLISSEMENT PUBLIC FONCIER NORD-PAS DE CALAIS

DECREE NR. 90-1154, 19 DECEMBER 1990
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CONSOLIDATED TEXT

Art. 1 - An industrial and commercial public agency shall be created under the name of Etablissement Public Foncier Nord-Pas de Calais. It is granted legal personality, financial autonomy and shall be based in LILLE.

Art. 2 - This Etablissement is empowered, throughout the territory of the Nord-Pas de Calais region, to:

1°) Proceed to all real-estate and land operations aiming at supporting development in the sense of article L. 300-1 of the Town planning code, particularly the reconversion of industrial brownfields and derelict areas;

2°) Carry out the surveys and works necessary to the achievement of the assignment defined above in 1°.

Outside the territory of the Nord-Pas de Calais region, the Etablissement may carry out, with no remuneration, secondary consultancy and advising assignments that fall within the scope of its competences.

Art. 3 - The Etablissement shall act within the framework of a pluriannual intervention plan implemented in yearly periods.

Art. 4 - In order to achieve the goals defined above in article 2, the Etablissement can exercise the rights of pre-emption defined in the Town Planning Code in the cases and under the conditions provided for in this code, and act by means of compulsory acquisitions.

Art. 5 - The Etablissement is empowered to purchase shares in companies, groups or organisms if they contribute directly to the fulfilment of the Etablissement's assignments in accordance with Art. 19.

Art. 6 - The Etablissement is governed by a board of thirty-two members made up as follows:

1°) Eight regional councillors appointed by the Conseil régional du Nord-Pas de Calais;

2°) Eight Nord and Pas-de-Calais departmental councillors, four of which are appointed by the Conseil général du Nord and four by the Conseil général du Pas-de-Calais;

3°) Eight representatives of communautés urbaines, communautés d'agglomération and communautés de communes with competences in the field of housing, appointed by the deliberating body of each community under the following conditions:

- one representative of the Communauté urbaine de Lille;
- one representative of the Communauté urbaine d'Arras;
- one representative of the Communauté urbaine de Dunkerque;
- the representatives of five other public intermunicipal structures, two from the Nord department and three from the Pas-de-Calais department.

These five institutions are chosen by a council made up by the presidents of the communautés d'agglomération and communautés de communes that are competent in the field of social housing, or their representatives. The Préfet de Région du Nord-Pas de Calais, Préfet du Nord, holds a meeting of this council each time it is entirely renewed.

4°) Eight representatives of socio-economic circles, appointed as follows:

- two representatives of the regional chamber of commerce and industry;
- one representative of the regional chamber of agriculture;
- one representative of the regional chamber of trade;
- four representatives of the regional Conseil économique et social.

Art. 7 - The Préfet de Région du Nord-Pas de Calais publishes in a decree the nominative list of the members of the board of governors, as set up according to Art. 6 and in some cases Art. 8 and proceeds to install the board.

Art. 8 - Governors are appointed for six years. However, new governors are appointed each time the regional council is renewed. Furthermore, the governor's mandate ends ipso jure when their elective mandate ends.

In the case of a vacancy in the board of governors for any reason, the board is completed by new members appointed in the same way as those they replace for the normal remaining duration of the original mandates. A new member must be appointed within two months after a vacancy is stated.

In case one or several representatives are not appointed according to Art. 6, the Préfet de Région du Nord-Pas de Calais, Préfet du Nord, proceeds to appoint them.

Art. 9 - The board of governors elects a president and several vice-presidents among its members.

The president is chosen among the representatives of the regional council.

The vice-presidents stand in for the president in the order of their appointment in case of absence or inability.

Art 10 - The board of governors meets at least twice a year. The agenda of the meetings must be brought to the knowledge of the members of the board at least ten days in advance.

The board of governors' deliberations are valid if at least half of its members are present or represented in the meeting. If the number of members is not sufficient at the first lawful convening of the board, the board's deliberations are deemed valid with no quorum condition at the second convening.

An absent governor can be represented by another governor. A governor can only represent one of his peers.

Decisions are taken by absolute majority of the votes. In case of a draw, the president has a casting vote.

Art 11 - The board of governors is convoked by its president, who also sets the agenda and leads the debates. The board must be convoked if the Préfet de région or half the members of the board make a written request to the president.

The Préfet de Région du Nord-Pas de Calais, Préfet du Nord, has a right to attend meetings and to be heard whenever he requests.

The Préfet du Pas de Calais, the heads of the state's department for equipment, agriculture and forest, and environment, the Etablissement's director, the member of the general and financial control agency and the accountant have a right to attend meetings and to be heard whenever they request.

The board of governors may hear any person if deemed relevant to a specific point of the agenda.

Art. 12 - The board of governors deliberates and settles on the Etablissement's business. For this purpose:

1°) It sets the general direction of the policy and determines the pluriannual plan and its yearly periods;

2°) It votes the budget and sets the amount of the special development tax;

3°) It authorises loans;

4°) It approves the balance sheet and sets the allotment of earnings;

5°) It approves transactions and allows the director to negotiate under conditions set by the board;

6°) It sets the rules of staff recruitment.

It cannot delegate the attributions mentioned above in 1°, 2° and 3° to the Executive Committee.

Art. 13 – The board of governors elects among its members an Executive Committee made up by eight members, among which the president and vice-presidents of the board. The Executive Committee must comprise at least one departmental councillor of Nord, one departmental councillor of Pas de Calais, two representatives of public intermunicipal structures and one representative of the professional sectors.

The Executive Committee settles on the business forwarded to it by the board of governors, within the limits of its delegated powers. It meets and deliberates under the conditions set out in the last three paragraphs of Article 10.

The Préfet de région, Préfet du Nord, has a right to attend meetings and to be heard whenever he requests.

The Préfet du Pas de Calais, the heads of the state's department for equipment, agriculture and forest, and environment, the Etablissement's director, the member of the general and financial control agency and the accountant have a right to attend meetings of the Executive Committee.

Art. 14 – The minutes of the board's and Executive Committee's deliberations are sent to the Préfet de région, Préfet du Nord, and to the Préfet du Pas de Calais, to the head of the state's department for agriculture and forest, to the head of the state's department for

environment, to the member of the general and financial control agency and to the accountant.

Art. 15 - The Etablissement's director is appointed by an order of the minister in charge of town planning, on the proposal of the Préfet de région and after hearing the opinion of the board of governors. The office of director is incompatible with a governor's mandate.

The director is in charge of organising the business that falls within the Etablissement's field of competence. He prepares and implements the decisions of the board of governors. Most notably, he prepares and lays out the pluriannual plan and the yearly intervention periods. He prepares and lays out the budget. He is the certifying officer of the Etablissement's expenditures and incomes. He manages the Etablissement, appears for it in court, signs agreements, procurement contracts, transfers, acquisitions and leases. He recruits the Etablissement's personal and has authority over them. He can delegate his signature.

Art. 16 – The board of governors' and the Etablissement's rules of procedures are drafted by the director and adopted by the board of governors.

Art. 17 - The Etablissement's financial and accounting system follows the provisions of articles 190 to 225 of Decree n°62-1587 (29 December 1962) on the general rules of public accounting.

The accountant is appointed by the Préfet de région du Nord-Pas de Calais, Préfet du Nord, after hearing the opinion of the State paymaster for Nord-Pas de Calais.

Art. 18 - The State maintains an economic and financial control according to decree n°55-733 (26 May 1995) on financial and economic control by the State.

Art. 19 - The Préfet de région is in charge of controlling the Etablissement.

Deliberations of both the board of governors and the Executive Committee are sent to the Préfet de région. They only become enforceable with the Préfet's express approval or if no observation is made within forty days from their reception by the Préfet.

Deliberations of the board of governors related to purchases made within the frame of Article 5 are enforceable ipso jure if a majority of shares are purchased and if the purchase is below a threshold set by an order of the ministers in charge of economy, budget and town planning. If these purchases exceed the aforementioned threshold, the board of governors' deliberations are only enforceable after approval by a joint decree of the ministers in charge of economy, finance and town planning.

Art. 20 - The Etablissement's resources include:

1°) Any specific tax resource;

2°) Endowments, subsidies, advances, contributions and participations brought in by the State, local governments, their public institutions, national companies, and any public or private person;

3°) The proceeds of the loans it is authorized to take out;

4°) The subsidies it can obtain on behalf of local authorities, public institutions and companies in accordance with the agreements signed with them;

5°) The proceeds of the transfers of real estate and movables;

6°) The disposable income of its real estate and movable goods;

7°) Donations and legacies;

8°) Remunerations for services provided and the repayment of various advances and pre-financing funds granted by the Etablissement.

Art. 21 – The Etablissement can only take out loans if one or several local communities or their joint structures act as surety.

Art. 22 – The prime minister, the minister of economy, finance and budget, the minister of the interior, the minister of industry and spatial planning, the minister of equipment, housing, transport and the sea, the delegated minister for budget, the delegated minister to the minister of the interior and the delegated minister for spatial planning and reconversions are in charge, each in their specific fields, of enforcing this decree, which is to be published in the Journal officiel de la République française.