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Drawing up the budgets of French local authorities during the Covid–19 epidemic

**Przygotowywanie budżetów przez francuskie
wspólnoty terytorialne podczas epidemii
Covid-19**

Abstract. The containment period related to the Covid-19 epidemic required adaptations for the elaboration of local budgets. Owing to the containment that took place in France on 17 March 2020 and the declaration of a state of health emergency on 24 March 2020, the local deliberative assemblies were not all able to meet the deadlines for adopting their budgets, which were normally set for 15 April or 30 April. Adjustments were therefore necessary. The order of 25 March 2020 very quickly made it possible to adapt the principles applicable to this unprecedented situation. Despite these provisions, the preparation of local budgets remains disrupted and the voting of local authority budgets has had to be adjusted.

Keywords: regional and local authorities; local budget; adoption; preparation; vote; covid-19; health crisis; budgetary autonomy.

Streszczenie. Wprowadzenie zmian dotyczących przygotowywania budżetów przez francuskie jednostki samorządu terytorialnego było niezbędne z uwagi na rozpoczęcie 17 marca 2020 r. lockdownu we Francji i wprowadzenie w tym kraju 24 marca 2020 r. stanu zagrożenia zdrowia publicznego. Działania te podjęto związku z epidemią Covid-19. Niektóre kolegialne organy stanowiące nie były w stanie dotrzymać terminów, w których powinny przyjąć swoje budżety w „normalnym” trybie (czyli do 15 lub 30 kwietnia) z powodu wprowadzonych ograniczeń. W związku z tym konieczne było dostosowanie dotychczasowych zasad do tej bezprecedensowej sytuacji. Uczyniono to Ordonansem z 25 marca 2020 r., który bardzo szybko wprowadził niezbędne zmiany. Mimo przyjęcia tych przepisów prace nad budżetami jednostek samorządu terytorialnego są nadal utrudnione, a zasady dotyczące głosowania nad tymi budżetami wymagają nowelizacji.

Słowa kluczowe: władze regionalne i lokalne; budżet lokalny; przyjęcie; przygotowanie; głosowanie; Covid-19; kryzys zdrowotny; autonomia budżetowa.

1. Introduction

Article 1 of the French Constitution of 4 October 1958 states that France is “an indivisible, secular, democratic, and social Republic” whose “organization is decentralised”¹. The French territorial authorities are therefore an essential element in the functioning of the State. Their competences defined by law are organised within the framework of the principle of free administration affirmed by Article 72 of the Constitution². In this context, Article 72-2 of the Constitution recognises the financial autonomy of local and regional authorities³. Local authorities thus benefit from “resources which they may freely dispose of under the conditions laid down by law”. This free administration, supplemented by financial auton-

¹ Art. 1, Constitution 4 octobre 1958, <https://www.conseil-constitutionnel.fr/le-bloc-de-constitutionnalite/texte-integral-de-la-constitution-du-4-octobre-1958-en-vigueur> (access on-line: July 14, 2020).

² E. Oliva, *Les principes de la libre administration et d'autonomie financière*, “Revue Française de Finances Publiques” 2012, No 119, p. 49.

³ L. [loi] constitutionnelle No 2003-276 of 28 March 2003 relative à l'organisation décentralisée de la République, JORF [Journal Officiel de la République Française] No 75 of 29 March 2003, p. 5568.

omy, is therefore governed by law⁴. The general framework of the operating principles of French local authorities remains fixed by ordinary law and the organic law, the purpose of which is to supplement the Constitution⁵. It is also the French Parliament which sets, in the same conditions, the principles applicable to the budgets of the local authorities.

According to Article 72 (1) of the Constitution, the term “territorial community of the Republic” is to be understood primarily as two categories. The first category comprises local structures based on a specific geographical territory, characterized by a general competence over their territory. These are the communes (35,416 on 1 January 2020, of which 34,839 are in metropolitan France, i.e. 30% of the total number of communes in the European Union of 27, whereas France represents only 13% of the population of Europe), the metropolitan departments (95), the 6 overseas departments (Guadeloupe, Martinique, French Guiana, Reunion, Saint Pierre and Miquelon, Mayotte), and regions (22 metropolitan regions), to which are added special-status communities and overseas collectivities (Wallis and Futuna, French Southern and Antarctic Territories, French Polynesia, New Caledonia)⁶. The second category of local structures concerns the groupings of communities in the first category. These groupings are characterized by the principle of specialisation. They are of different natures (metropolises, urban communities, communities of communes, conurbation communities, trade unions, etc.). On 1 January 2020, France had 1,254 groups with their own tax system, i.e. 98.3% of them and 92.1% of the population⁷. In addition to these two categories,

⁴ M. Leroy (ed.), *L'autonomie financière des collectivités territoriales*, Paris 2017, p. 112; A. Hastings-Marchadier, *Dotations et autonomie financière locale. Pour une affirmation du rôle des dotations dans l'approche conceptuelle de l'autonomie*, “Gestion et Finances publiques” 2017, No 2, p. 43.

⁵ L. organique No 2004-758 of 29 July 2004 prise en application de l'article 72-2 de la Constitution relative à l'autonomie financière des collectivités, JORF No 175 of 30 July 2004, p. 13561; S. Creusot, O. Benjamin, *Le financement des nouvelles compétences des collectivités locales*, Paris 2007, p. 75.

⁶ <https://www.vie-publique.fr/en-bref/20079-populations-legales-les-chiffres-pour-2020>; <https://www.insee.fr/> (access on-line: 14 July 2020).

⁷ https://www.collectivites-locales.gouv.fr/files/files/bilan-statistique-2020_diffusion.pdf (access on-line: 14 July 2020).

there are all the public law divisions of municipalities, departments, and regions: local public establishments with variable financial links with the local authorities of attachment.

In accordance with the principles laid down in the Constitution of 4 October 1958, local authorities have a limited margin of autonomy regarding the rules applicable to the preparation and implementation of their budgets⁸. These rules are identical for all local authorities, whatever their nature and category of membership. Local and regional authorities must respect a major constitutional principle: the principle of citizens' consent to taxation. Pursuant to Article 14 of the Declaration of the Rights of Man and of the Citizen of 1789, incorporated into the constitutionality block of the Constitution of 4 October 1958, the budget must be adopted by an elected representative assembly. Only an elected deliberative assembly can therefore draw up and adopt the budget. However, the budget of a local authority is in a situation of legal subordination in relation to the State, with controls exercised over its preparation and implementation limiting the financial autonomy of local elected representatives.

The local budget procedure is subject to certain special requirements that differ from those applicable to the State budget. Every local budget is enclosed in a number of procedural rules concerning its elaboration until its execution. In order to avoid any contradiction between decentralisation and the rules of budgetary procedure, the latter had to be adapted to the preparation and adoption of local budgets.

Owing to the particular timetable applicable to the adoption of local authority budgets, the period of containment linked to the Covid-19 health crisis necessitated adaptations for the preparation of local budgets. While the principle of annual budgeting applies to local finances and corresponds to the calendar year, local authorities have until 15 April, or even 30 April during the election period, to adopt their budgets. Owing to the containment that took place in France on 17 March 2020 and the declaration of a state of

⁸ M. Hayat, *Le déclin de l'autonomie fiscale locale* [in:] M. Hayat, Th. Lambert, *La décentralisation fiscale : jusqu'où?*, Paris 2004, p. 75.

health emergency on 24 March 2020⁹, not all local deliberative assemblies were able to meet the deadlines. Adaptations were therefore necessary. The Order of 25 March 2020¹⁰ very quickly made it possible to adapt the principles applicable to this unprecedented situation. Despite these adaptations, the preparation of local budgets remains disrupted (2.) while the voting of local authority budgets has had to be adjusted (3.).

2. Disrupted preparation of local budgets

As with the State budget, the preparation of the budget documents of French local authorities is reserved for the executives of the various local authorities, i.e. the elected authorities that run the local authority. It is always the mayor for the communes, the president of the departmental council for the departments, or the president of the regional council for the regions who is competent to prepare the budget. These elected persons are, in budgetary matters, referred to as “authorizing officers”: they give the orders, they order. This power of preparation is framed by various constraints imposed by law. This preparation takes place in several phases.

In the context of the Covid-19 health crisis, the preparation of local budgets may have been disrupted owing to the date of confinement: Tuesday 17 March at 12:00 for the whole of France. However, the budgets of the local authorities should normally have been adopted before 15 April, so budget preparation was already largely under way. However, owing to the municipal elections and the renewal of the deliberative assemblies of the municipalities in March 2020 (15 March for the first round of elections and 22 March for the second round of elections) the preparation of the budgets of the municipalities was less advanced. The municipalities had to adopt their budgets until 30 April 2020. This date was intended to

⁹ L. No 2020-290 of 23 March 2020 d’urgence pour faire face à l’épidémie de covid-19, JORF No 0072 of 24 March 2020.

¹⁰ Ordonnance No 2020-330 of 25 March 2020 relative aux mesures de continuité budgétaire, financière et fiscale des collectivités territoriales et des établissements publics locaux afin de faire face aux conséquences de l’épidémie de covid-19, JORF No 0074 of 26 March 2020.

allow the new deliberative assemblies and therefore the new political majorities to prepare their budgets on the basis of their electoral programme. The Covid-19 health crisis called this timetable into question: only the first round of the communal elections could be held on 15 March because of the confinement that took effect on 17 March; the second round was postponed to 28 June. Thus, at the end of the first round of the municipal elections, two scenarios arose: either a majority was achieved and a new deliberative assembly was elected; or no majority was achieved and the former deliberative assembly and the former mayor and his team remained in office. In both cases, the Covid-19 health crisis did not lead to a change in the procedure for preparing local budgets. However, this crisis has largely disrupted the process of preparing the local budget: either by leaving the old teams to prepare the budget; or by giving the newly elected officials the task of preparing a budget in a totally new context.

2.1. Actors disturbed in their budget preparation

The legal texts give exclusive competence to the local elected authorizing officers for the preparation of budgetary documents¹¹. Local authorizing officers (presidents of regions, presidents of departments, mayors) were disrupted in the preparation of local budgets by the Covid-19 health crisis. In many communities, the confinement of local authority officials has greatly complicated the work of health preparation. Local authorities had to face a degraded functioning at a time when the activity of local public services were particularly important.

The authorizing officer does not carry out this preparation work himself. He entrusts this work to territorial civil servants of the community under the responsibility of a deputy or vice-president. However, the authorizing officer retains authority and control over this process.

¹¹ Municipality: Article L. 2312-1 CGCT; department: Article L. 3312-1 CGCT; region: Article L. 4311-1 CGCT.

In smaller municipalities, the elected authorizing officer is often unable to prepare the budget documents. Moreover, the smaller municipal services do not always have the necessary means to carry out this task¹², so authorizing officers can call upon the local public accountant. Authorizing officers thus have the possibility of calling upon the local public accountant for the material preparation of the budget documents. The local public accountant is a state agent, appointed by the state to the local authority. The accountant's task is to keep the local authority's accounts on behalf of the State and the local authority. This function is incumbent on the accountant regardless of the nature and size of the local authority. This function of advising the accountant to the authorizing officer on the preparation of the local authority's budget is officially provided for in the texts. It is subject to the payment of an advisory fee by the local authorities to the State's public accountant. This possibility of advice thus constitutes a derogation from the principle of separation between the elected authorizing officers of local authorities and the public accountants, who are civil servants appointed by the State¹³.

During the preparation process, the tax services also provide information that is indispensable for drawing up the budget: communication of changes in tax bases, simulation of tax rates, allowances, exemptions, etc.

2.2. Increased constraints on budget preparation

When preparing local budgets, there are quite a number of constraints. The constraints linked to the respect of budgetary principles are important: in particular, the principle of balanced budgets, which is specific to local authorities, must be respected. Constraints linked to the preparation of budget documents are also essential. However, one of the most important constraints is the legal constraint on the structure and classification of

¹² R. Brolles, Th. Marechal, B. Straub, *Budget des communes et des EPCI 2018*, Paris 2018, pp. 155–157.

¹³ M. Bouvier, *Les finances locales*, Paris 2018, p. 124.

budget operations. These constraints appeared particularly rigid during the Covid-19 health crisis, creating a strong rigidity for local authorities.

2.2.1. The legal constraint of structure

All local budgets must follow the same structure as applies to all documents in the same financial year: a division into an operating section and an investment section.

This distinction is an essential difference from the State finances organized, following the organic law relating to the finance laws of 1 August 2001, into missions, programmes, and actions.

The purpose of the operating section is to list and quantify strictly all annual revenue and expenditure operations. This expenditure is linked to the normal running of the local authority's services. The operating section follows a purely administrative logic. Operations are presented according to user services for expenditure and assigned to beneficiary services for revenue. This section includes regular resources coming from direct local taxes, or from State grants, subsidies, and contributions, or from the operating income and property of local authorities. As for operating expenditure, this includes, in particular, expenditure on staff, supplies and minor maintenance¹⁴.

The purpose of the investment section is to list and quantify income and expenditure in all operations that affect the composition of the local authority's assets. It contains only non-repetitive or non-renewable operations. The investment section follows a patrimonial logic. All increases in the local authority's assets are recorded under investment expenditure: new buildings, major repairs, repayment of loan capital, capital grants paid by the local authority to other public bodies, etc. The investment section is based on a logic of assets. All decreases in the community's assets are recorded as an investment income: the sale of movable or immovable property belonging to the community, capital grants received by

¹⁴ M. Conan, R. Muzellec, *Finances locales*, Paris 2018, p. 156.

the community, levy on the resources of the operating section for the benefit of the investment section, etc.

The division into operating and investment sections requires separate management of the two sections. The actual balance of the two sections must be assessed section by section. However, there is no definitive separation between the two sections.

The distribution of expenditure between one or other of the two sections is never neutral:

- only expenditure operations entered in the investment section are eligible for reimbursement of the VAT charged on them at the time of their implementation or acquisition;
- the accounting officer may be held personally liable in the event of an error in the entry of expenditure between the two sections.

Thus, minor maintenance work is always considered as an operating expense, as it is not intended to improve the heritage value of the property being conserved. On the other hand, improvement expenditure on the same property is to be classified in the investment section, as it adds to the local heritage value.

The choice of investments is decisive for the structure of expenditure and the financial situation of the local authority. This choice is most often characteristic of local political action, often linked to the electoral cycle. However, the selection of investment projects does not always seem to give sufficient opportunity for in-depth expertise on the return on investment, or even for open discussion in local assemblies. The presentation of investment projects must therefore be more closely supervised, with a detailed impact study on the amount and nature of the operating expenses generated by the investment. This impact study must be based on the cost, revenue and projected use of the equipment. The expected direct and indirect economic, social and environmental impact of the planned investment should also be measured.

2.2.2. The legal constraint of classification

Any local budget must comply with a standard legal classification for income and expenditure.

Depending on the nature of the authorities and/or the number of their inhabitants, local budgets can be voted either by nature or by function.

Budgetary operations are obligatorily classified by nature (referred to as budget by nature) in municipalities with up to 10,000 inhabitants (with a simplified structure for those with less than 500 inhabitants) and may be chosen by those with more than 10,000 inhabitants, departments and regions. In municipalities with 3,500 inhabitants or more and the departments that apply it, this presentation must be supplemented, for information purposes, by a functional presentation. In a budget by nature, the expenditure and revenue of each section is divided into chapters. These chapters are divided into articles, which may themselves be broken down.

The budget by function is an option open to municipalities with more than 10,000 inhabitants, and to departments. However, for information purposes, these local authorities must complete the budget with a presentation by nature. The functional nomenclature makes it possible to present the budget by public policy¹⁵. This presentation brings together operations by major sectors of activity. Operations are therefore grouped into functional chapters (general services of local governments, public safety and health, education and training, culture, etc.), subdivided into functional articles. Transactions that cannot be linked to a specific function are attached to non-functional chapters. Local stakeholders consider the functional presentation to be ill-suited to their needs. This is why very few local authorities adopt such a presentation. The largest authorities (regions, departments, municipalities, and the largest EPCIs) have even decided to use a personalised analytical presentation of their budgetary and financial information. Thus, they do not use the legal functional presentation and prefer to keep a presentation by nature that is however less in line with their needs. Some communities even go so far as to ask to be able to vote and execute their budget according to the nomenclature they them-

¹⁵ On this aspect, see: V. Dussart, *Finances locales*, Paris 2017, p. 206.

selves have developed. Improvements to the functional nomenclature system may be possible. However, we must not forget the imperative of publishing homogeneous data on French territory, in order to make the data on local expenditure legible and consolidated.

2.3. Sustained phases of preparation

The preparation of a budget for a local authority requires an objective knowledge of the financial situation of the authority. The “administrative account” of the local authority provides knowledge of the past financial situation. This account records all the budgetary operations carried out by the local authority. Thanks to the administrative account, it is possible to assess the authority’s real financing capacity. This capacity results from the difference between the regular resources and the current operating expenses of the services. The results of the last financial year are therefore an essential element for the preparation of the next budget, which is called the “initial budget”. In addition, a certain number of average ratios, published by the State, enable local authorities to better assess their room for manoeuvre. During the usual period, the vote on the local authority’s “administrative account” must take place by 30 June at the latest. With the Covid-19 crisis, the vote on the “administrative account” has been postponed until 31 July 2020.

Once the financial situation of the local authority has been ascertained, expenditure and revenue should be assessed. Some expenses, such as those for the day-to-day running of services or staff costs, are virtually renewable from one year to the next. Other expenses, which are compulsory, can be easily calculated: debt annuities, for example. Tax revenues or government allocations can be fairly easily assessed on the basis of the previous year. In terms of revenue, the choices depend upstream on the self-financing objective pursued: either the levy on the resources of the operating section is zero or equal to the repayment of the debt principal, or it is higher than this repayment. In the latter case, net self-financing can then be released to finance new investments and to feed the investment section.

Next, the volume of borrowing to be provided for should be determined in the light of the scale of the capital expenditure envisaged. It must then be checked as to whether it is compatible with the capacity of the community in terms of its present and future costs. In particular, the annual loan instalments must be compared with the level of operating revenue and financial costs. With the Covid-19 health crisis, changes were made to the use of municipal loans. The ordinance of 25 March 2020 provided for the extension of the delegations given to the executive by the deliberative assemblies of the municipalities in matters of borrowing. Normally, these delegations had ended with the start of the election campaign. They were reinstated until the next meeting of the deliberative assembly. This extension enabled local authorities to resort to borrowing to meet exceptional capital expenditure on an emergency basis. The loan can cover only capital.

After all the choices have been made, the draft budget is presented by the executive and submitted for adoption to the deliberative assembly of the local authority.

The presentation of the budget is an essential act for the chief executive of a local authority: it is the moment when priority choices are made and commitments are made. However, this exercise is often considered formal and very technical, or so political that discussion is limited. This is why some people propose that regions, departments, and municipalities with more than 10,000 inhabitants should provide for the appointment within the deliberative assembly of members of the majority and of the opposition, responsible for formulating an opinion on the budget proposals of the local executive. Likewise, at the request of the local authority, the public accountant could be invited during the budget debate to present the situation of the local authority, placing it in a more general context (local, departmental, regional and national) allowing useful comparisons to be made.

3. An adjusted vote of the local budgets

The adoption of local budgets is an exclusive competence of the deliberative assemblies of local and regional authorities. This competence is of

major importance because of its political and legal scope. This competence constitutes a means of respecting the principle of budgetary authorization given by the deliberative assembly. This competence gives the budgetary document its enforceable character¹⁶.

The principle of voting is identical, regardless of the authorities (communes, departments, regions, and even public establishments of inter-municipal cooperation). Voting is also identical for all budgetary or accounting documents prepared under the authority of the elected authorizing officer of the authority.

The rather restrictive aspect of the vote reveals a certain mistrust of the State towards local and regional authorities. Several formalities prior to the vote have to be respected, while the voting procedure itself is highly regulated, any delay in adoption is sanctioned, and several obligations follow the vote.

With the Covid-19 health crisis, a relaxation of the formalities prior to the vote of local budgets has had to be organised. An adjustment of the actual voting procedure was also planned. Similarly, the time limits for adopting local budgets have been extended and a framework for derogations in the absence of the adoption of local budgets has been introduced.

3.1. Easing of formalities prior to the vote on local budgets

There are three formal prerequisites for the adoption of the vote.

3.1.1. A deliberative assembly convened in accordance with procedure

The deliberative assembly must first be validly convened. A notice must be sent by the executive to each councillor:

¹⁶ J.-L. Albert, *Finances publiques*, Paris 2019, pp. 658–660.

- at least three clear days before the meeting for municipalities with less than 3,500 inhabitants¹⁷;
- at least five days before the meeting for municipalities with more than 3,500 inhabitants;
- at least twelve days before the opening of the first meeting devoted to the examination of the budget for the departments¹⁸ and the regions¹⁹.

This notice must include at least an agenda mentioning the examination of the budget document. For municipalities with more than 3,500 inhabitants, the invitation must be accompanied by a “summary note” on the draft budget. For departments and regions, the draft budget must be attached. In any case, for each community, councillors are entitled to full information, controlled by the administrative judge²⁰.

In addition, for each community, a quorum is required for the discussion of the budget to take place (the presence of an absolute majority of the members in office is necessary²¹).

3.1.2. A draft budget presented to the deliberative assembly

The mayor²², the president of the general council²³ and of the regional council²⁴ must present the draft budget to the deliberative assembly. In practice, it is often the deputy or vice-president in charge of financial affairs who explains the budget document.

¹⁷ Article L. 2121-11 CGCT.

¹⁸ Article L. 4311-1 CGCT.

¹⁹ Article L. 3312-1 CGCT.

²⁰ Municipality: Article L. 2121-13; department: Article L. 3121-19; region: Article L. 4132-17 CGCT.

²¹ Municipality: Article L. 2121-17; department: Article L. 3121-14; region: Article L. 4132-13 CGCT.

²² Article L. 2312-1 CGCT.

²³ Article L. 3312-1 CGCT.

²⁴ Article L. 4311-1 CGCT.

3.1.3. A budget orientation debate organized before the vote

In municipalities with 3,500 inhabitants or more²⁵, as well as in departments²⁶ and regions²⁷, a budget orientation debate must be held before the budget is examined. For the municipalities concerned and the departments, this debate must precede the examination of the budget by two months and, for the regions, by ten weeks. During the Covid-19 health crisis, the deadlines for the presentation of the budget orientation debate were suspended. The debate can take place during the session devoted to the adoption of the initial budget. The debate on the adoption of the initial budget is itself postponed until 31 July, the deadline for adopting the budget. It concerns the main budgetary guidelines for the financial year as well as the multi-year commitments envisaged. However, the texts do not specify the precise content of this debate. Logically, it should be an opportunity to present the financial situation of the community, but also the constraints linked to the economic context and the overall situation of public finances. In addition, it can also be an opportunity to carry out a multi-year financial forecast for the local authority, the results of which can be made available to the deliberative assembly²⁸. This system makes it possible to supplement the budget by planning the development of local authority services. This system exists in Germany and Finland, for example.

For large local authorities, the budget orientation debate can be the occasion for a consolidated presentation of the accounting and financial data of the local authority. It can allow a better appreciation of the environment and the challenges of the next initial budget.

In any event, this debate is a substantial formality of the budgetary procedure, i.e. it must be compulsorily satisfied on pain of illegality. In the particular circumstances of the Covid-19 health crisis, this obligation is respected, but its scope is very limited because the budget orientation debate can take place in the same session as the adoption of the original budget.

²⁵ Article L. 2312-1 CGCT.

²⁶ Article L. 3312-1 CGCT.

²⁷ Article L. 4311-1 CGCT.

²⁸ F. Robert, *Les finances locales*, Paris 2013, p. 123.

3.2. An adjustment of the actual voting procedure for local budgets

The actual voting procedure begins with a preliminary examination of the draft budget by the assembly's finance committee. Depending on the practice of each authority, other committees may be consulted. These commissions have consultative powers. They prepare the budgetary debates and can formulate a certain number of proposals for modification. In the regions, the draft budget must obligatorily be submitted for the opinion of the regional economic, social, and environmental council. The regional economic, social and environmental council is an assembly composed of representatives of civil society.

Discussion and voting take place before the deliberative assembly. The voting procedure is entirely controlled by the principle of budgetary speciality. Voting takes place chapter by chapter or, if the assembly so requests, article by article.

In appearance, the deliberative assembly has wide powers of amendment. It can add, correct, delete, and even reject the draft budget presented by the executive, although it is up to the council to ensure that the various budgetary principles are respected, including that of real balance. The members of the deliberative assemblies may not make budget proposals. They are not competent to prepare the budget. They may, however, propose amendments²⁹. It is up to the deliberative assemblies to adjust this right (in its rules of procedure or on a case-by-case basis). Deliberative assemblies must not prejudice the effective exercise of the right of amendment. It is therefore not permissible to lay down a general principle of inadmissibility of amendments which have not been examined beforehand in committee. This would be a tantamount to prohibiting all amendments in the sitting and would undermine the effective exercise of the right of amendment³⁰.

²⁹ CE, 4 juillet 1997, Région Rhône-Alpes, "Revue Française de Droit Administratif" 1997, p. 1092.

³⁰ See, M. Bouvier, M.-C. Esclassan, J.-P. Lassalle, *Finances publiques*, Paris, 2019, pp. 516–518.

In normal times, the vote on the initial budget of local authorities takes place before the vote on the local authority's balance sheet for year n-1. This balance sheet takes the form of the "administrative account". In normal times, the vote on the local authority's "administrative account" must take place by 30 June at the latest. With the Covid-19 crisis, the vote of the "administrative account" has been postponed until 31 July 2020. This date of 31 July 2020 also corresponds to the date of adoption of the initial budget for the year 2020. Thus, in a period of health crisis of Covid-19, the votes of the balance sheet of the year n-1 of the community and the primitive budget will be carried out during the same session.

3.3. Longer time frames for adopting local budgets

In France, the budget year corresponds to the calendar year. The budgets of public persons must therefore be adopted before the end of the calendar year. However, delays in the adoption of local budgets are frequent. These delays are not the consequence of the practices of local authorities, but of the fact of the late adoption of the State budget, i.e. the budget law³¹. A significant amount of financial assistance to local authorities is indeed dependent on the adoption of the State budget law³². However, the State budget is rarely adopted and promulgated before Christmas. Moreover, once the State Finance Act is published, it must be specified how the financial envelopes are to be distributed among the regions, departments, and communes from January onwards. Under these conditions, each local authority does not know the exact amount of financial assistance received from the State until mid-February at the earliest. For local authorities, however, State financial assistance is essential because the State is the largest local "taxpayer".

This is why the budget of local and regional authorities must be voted on before 15 April, a date which is postponed to 30 April if the delibera-

³¹ See, F. Valembos, *Réussir son budget*, Paris 2019, pp. 216–226.

³² E. Oliva, *Finances publiques*, Paris 2008, pp. 179–185.

tive assembly is renewed or to 1 June if the budget for the previous year has been adjusted automatically. If the State services have not transmitted the necessary information before 15 April, the assembly has a period of fifteen days from this communication to adopt the budget. The Order of 25 March 2020 postponed the date of adoption of the initial budgets of local authorities during the Covid-19 health crisis. Local authorities have to adopt their initial budgets until 31 July 2020. This date (of 31 July 2020) also corresponds to the date of adoption of the “administrative account” which is the balance sheet account of the local authority. This “administrative account” must normally be adopted before 30 June 2020 in normal times. This vote makes it possible to close the accounts for the year n-1 of the local authorities. This date is postponed until 31 July in Covid-19 period.

In the current hypothesis where the community budget has not been adopted on 1 January of the year to which it applies, provision is made for the provisional renewal of the previous budget³³. The executive may then, without the authorization of the assembly, collect revenue and incur operating expenses within the limit of the previous year’s budget and repay loans that fall due. Likewise, within the limit of 25% of the credits that were opened the previous year, the credits of the investment section may be renewed³⁴. Credits corresponding to the repayment of the principal of the debt are, however, excluded from this renewal.

When the initial budget has not been voted on before 15 April or 30 April in the years when the deliberative assemblies are renewed, a procedure is initiated under the heading of budgetary control. During the Covid-19 crisis, the date for initiating the procedure is postponed until after 31 July 2020.

In fiscal matters, with the Covid-19 crisis, more time is also being left to local authorities to set tariffs and local tax rates. In most cases, local authorities have an additional 3 to 4 months to adopt their taxes. For example, the institution and setting of the rates of the local tax on outdoor advertising (TLPE) is postponed to 1 October 2020 as opposed to 1 July

³³ Article L. 1612-1 CGCT.

³⁴ S. Huteau, *La nouvelle gestion publique locale*, Paris 2008, p. 189–192.

2020 in normal times. The same applies to the adoption of the coefficient of the local tax on the final consumption of electricity (TCFE): the date is postponed to 1 October 2020 as opposed to the usual 1 July 2020. Another example is the case of registration fees and the land registration tax (DMTO), which are taxes collected by the departments: the rate adopted by the departmental deliberative assemblies before 3 July 2020 is to come into force on 1 September 2020, as opposed to the usual 1 June. For voting on the rates and tariffs of local taxes (property tax on built-up property; property tax on non-built-up property; household waste removal tax; property tax for businesses, etc.) local authorities have an alternative: either they adopt rates before 3 July 2020, or the 2019 rates and tariffs are extended. As can be seen, the health crisis of Covid-19 has forced the legislator to adapt old rules.

3.4. The introduction of a derogatory framework in the absence of the adoption of local budgets

In order to ensure that local authorities could continue to operate during the period of the Covid-19 health crisis, derogatory measures were provided for even in the absence of the adoption of the community's original budget.

Thus, even in the absence of a vote on the budget, local and regional authorities may continue to commit, liquidate, and mandate capital expenditure within the limit of the expenditure entered in the previous budget. Under normal circumstances, the executive may decide to implement operating expenditure within the limit of that entered in the previous year's budget³⁵. This arrangement is maintained during the Covid-19 period. In order to ensure the continuity of public services and to cope with unforeseen expenditure, the ceiling for unforeseen operating and investment expenditure is raised to 15% (as opposed to 7.5% in normal times) of the estimated expenditure of each section (the operating section and the investment section).

³⁵ Article L. 1612-1 CGCT.

The principle of budgetary speciality applicable to the budgets of local authorities requires the deliberative assembly to vote appropriations in a specialised manner on reduced units assigned to specific operations³⁶. There is no voting of appropriations in a global manner without distinction between them. The principle is that a local budget must always be voted budget chapter by budget chapter. However, if the deliberating assembly so decides, the budget may be voted on, budget article by budget article. Articles are subdivisions of chapters. As regards budget implementation, the principle implies that the authorizing officer implements the chapters – or articles – of the budget as voted for by the deliberative assembly³⁷. When voting takes place by chapter, the authorizing officer may make transfers from article to article within the same chapter³⁸. Transfers of appropriations from one chapter to another are not authorised. Changes in the allocation of appropriations between articles are also prohibited when voting has taken place by article. This rule is to be interpreted strictly. With the Covid-19 health crisis, the legislator has provided for greater flexibility. In order to allow local and regional authorities to easily adjust their needs, movements of appropriations between chapters are now authorised for all local and regional authorities. Within the limit of 15% of operating expenditure and 15% of capital expenditure, local and regional authorities may move appropriations between chapters. This system already existed for certain specific local authorities such as the territorial authorities of Corsica, French Guiana, and Martinique, as well as the regions and metropolitan areas. From now on, during the Covid-19 period, this mechanism is extended to all territorial authorities, including the smallest: the municipalities. We can assume that after the Covid-19 period this facility will continue.

Finally, it should be pointed out that the State wished to encourage the support given to businesses by amending the rules applicable to the regions. The regional authorities are in fact the authorities responsible for

³⁶ L. Saïdj, *Brèves réflexions sur quelques mots-clefs de finances publiques pour le futur*, “Revue Française de Finances Publiques” 2007, No 100, pp. 219–230.

³⁷ G. Orsoni (ed.), *Finances publiques – Dictionnaire encyclopédique*, Paris 2017.

³⁸ Article L. 2312-2 CGCT.

economic development and business support. Since 25 March 2020, the date of promulgation of the Ordinance, the President of the Regional Council may grant aid directly to companies, up to a limit of 100,000 euros per aid, by delegation from the Regional Council. This delegation will last a maximum of 6 months from 25 March 2020. This competence of the President of the Regional Council allows him to act without having to convene its deliberative assembly. However, he must report on the aid granted at the next meeting of the regional council.

3.5. A continuation of the obligations following the vote

Any budgetary deliberations of the deliberative assembly must be transmitted to the representative of the State. This formality is necessary to make the budget enforceable. It must take place within fifteen days following the vote on the budget. Therefore, in 2020, owing to the Covid-19 crisis, local authorities have until 15 August 2020 to transmit their budget to the prefect, the representative of the State.

In the event of incomplete transmission of the budget, the prefect may request that the missing documents be sent.

It is also within this deadline that the budget must be made available to the public. The local executive has all means of publicity to bring the budget to the attention of the public. Most often, this budget can be consulted at the town hall, at the departmental hotel or at the regional hotel. A full or partial copy of the budget or accounts may be provided to the inhabitants of the local authority.

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