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Public Administration: Responding to the COVID-19 Pandemic

*Mapping the EU member states' public administration responses to the COVID-19 pandemic
(for EU Enlargement and Neighbourhood countries)*

FRANCE

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FRANCE

Centre of Government, policy co-ordination and decision making process

1. How is the Government (Council of Ministers) functioning (organisation of virtual meetings, remote sessions etc.)?

At the beginning of the crisis, the Government met by video-conference and also physically, respecting the recommended social distances. For the last Councils of Ministers, the meetings were held by video-conference. The Head of State, meanwhile, asked most of his advisers as of 17 April to telework like all French people, saying "we are in an exemplary regime".¹

2. How are the crisis management and external communications co-ordinated within the Government? What is the role of the CoG in this? Is there a central strategy/guidance?

- **Preparing the state for risks:** *The French State has a set of sectoral plans, developed at local or national level, in anticipation of large-scale crises and disasters. Each corresponds to a previously-identified risk or threat. All of these plans are updated whenever the circumstances require and new plans are created when major new risks arise.*
- *Whatever the nature of the crisis, a **crisis management process** is defined and applied. This process also provides for the creation of an **inter-ministerial Crisis Unit** (Cellule Interministérielle de Crise -CIC) and entrusts its operational management to a minister designated according to the nature of the events. On 17 March, the Prime Minister activated the CIC. Hosted in the basements of the Ministry of the Interior, Place Beauveau, the CIC is responsible for co-ordinating the action of all the ministries concerned in real time. A kind of army staff (état-major de guerre). The CIC is made up of representatives of the ministries concerned as well as experts or operators and four units: "situation", "anticipation", "decision" and "communication". In the same process, two additional assessments are planned: one for the end of the crisis and a final one concerning the preparation of the next crises.*
- *The "**external communication**" unit draws up an appropriate communication plan and manages all the actions of the communication system. The communication plan notably makes it possible to inform the population about the events and the measures taken and it promotes the dissemination of the necessary recommendations.*
- *Likewise, **different crisis units** have been created at the level of each key ministry: interior, foreign affairs, health and national education. These crisis units operate under the aegis of their respective ministers. That of the Ministry of Health plays an essential role in steering all health aspects and provides a daily information point by the Minister and/or the Director General of Health.*
- *Since the beginning of the epidemic, a **Scientific Council** (Conseil scientifique) set up by the Minister of Health at the request of the President of the Republic, provides the Government with information on the evolution of the health situation in order to shed light on the management of the coronavirus crisis. The scientific council produces summary documents that are made public after each meeting.*
- *At the regional level, crisis management is the responsibility of the prefects of the départements. In terms of health, the essential cog is the regional health agency (agence*

¹ https://www.lemonde.fr/politique/article/2020/03/19/palais-de-l-elysee-deserte-conseil-des-ministres-en-visio-et-dossiers-a-l-arret-le-quotidien-fantomatique-d-un-pouvoir-confine_6033620_823448.html

régionale de santé -ARS) which is a public establishment operator for the State and for social security (therefore competent both for the provision of care and funding).

- **Several National Plans** already existed in order to be able to react and take the necessary measures in the event that the life of the population or the regular functioning of the institutional, economic or social life of the country is called into question: among these plans: the pandemic influenza plan and the EBOLA plan.
- **The National Plan to Prevent and Combat the “Influenza Pandemic”²** is a document to assist preparation and decision-making that was prepared in 2011 by the French Government, drawing lessons from the management of the pandemic episode of 2009 and the various feedback and evaluations that have been conducted. This plan describes the State’s response strategy, emphasising flexibility and adaptation to the characteristics of the pandemic. It includes a preparation phase so that everyone in their area of responsibility can be ready, when the time comes, to face the crisis. This plan also concerns all public authorities, health professionals and socio-economic actors, and elected officials from all local authorities who are all strongly involved, in particular mayors.
- During the lockdown implemented since 17 March, each time you leave your home, you must have a special travel certificate or professional justification, in paper format, which specifies the reason for the movement. It was not until 6 April that a digital version presentable on a smartphone or tablet was possible and accepted. The police force organises fixed and mobile control missions throughout the territory. If these rules are not observed, people risk a fixed fine of EUR 135 (with a possible increase to EUR 375). In the event of a repeat of this violation (for two violations in 15 days), the fine is EUR 200 (with a possible increase to EUR 450) and becomes an offense punishable by a fine of EUR 3,750 and six months in prison maximum in the event of recurrence more than three times within 30 days.³

3. Any arrangements (rules, working procedures) which aim to streamline and accelerate the Government decision-making process (as regards deadlines, public consultations, transparency, impact analysis)?

The two chambers of the French Parliament approved legislation stipulating that France would enter a "state of health emergency for two months". This state of emergency came into effect on 24 March. This law - n° 2020-290 of 23 March 2020 - makes it possible to confront the epidemic of COVID-19 and “gives power to the Prime Minister to take by decree, on the counsel of the Minister of Health, the general provisions limiting the freedom to come and go, the freedom to conduct business and the freedom to assemble, and making it possible to requisition all goods and services necessary to combat the health disaster. These measures are proportionate to the risks incurred and appropriate to the circumstances of time and place [and] the measures can be terminated without delay (...) once they are no longer necessary.”⁴ This legislation provided the legal basis for all measures already introduced and authorised the Government to enact new measures. During the three meetings of the Council of Ministers between 25 March and 1 April, 37 decrees⁵ were issued to deal with the epidemic. The National Assembly and the Senate are informed "without delay" of the measures taken during this particular period. The Head of State announced the postponement of the second round of municipal elections and of all the reforms in progress, including that of pensions.

² https://www.gouvernement.fr/sites/default/files/risques/pdf/plan_pandemie_grippale_2011.pdf

³ <https://www.interieur.gouv.fr/Actualites/L-actu-du-Ministere/Attestation-de-deplacement-derogatoire-et-justificatif-de-deplacement-professionnel>

⁴ https://www.legifrance.gouv.fr/affichTexte.do?sessionId=DB880D16C146684E42FA9E35815999B3.tplgfr31s_3?cidTexte=JORFTEXT000041746313&dateTexte=20200401

⁵ <https://www.gouvernement.fr/comptes-rendus-du-conseil-des-ministres>

Public service and human resource management

1. What arrangements regarding teleworking? What is the share of civil servants teleworking? What is the share of civil servants still coming to the office?

Since Monday 16 March - on the double condition that work can be carried out and that the civil servants are not concerned by the business continuity plan (plan de continuité de l'activité -PCA) - teleworking constitutes the general method of organising work and falls under common law . Employees use the equipment assigned by their employers, or if necessary their personal equipment.⁶

If it is impossible to telework, employees are placed by their employers on special leave of absence (autorisation spéciale d'absence -ASA). Only public officials participating in essential work requiring physical presence actually go to their workplace. Any employee nominatively designated by their hierarchical superior as having essential work requiring physical presence is forced to physically go to their workplace. If this category of employee does not show up for work, even though all sanitary measures have been taken to protect them, they can be penalised for service not performed. This absence implies a deduction of 1/30 of their salary and disciplinary action.

2. What other flexible working arrangement (part time work, distribution of working hours over 7 days...)?

Work flexibility has been implemented for certain professions. For example, a childcare system is organised exclusively for personnel essential to the crisis management, and in particular nursing staff.

3. If civil servants cannot telework, how are they paid?

If it is not possible to telework, the member of staff is placed by their manager on a special leave of absence. The member of staff benefits from their full remuneration as well as from the maintenance of their promotion and retirement rights. In the context of the COVID-19 pandemic, and in order to protect the most vulnerable staff, those concerned are invited to stay at home, and not to physically attend work premises. A list of 11 pathological criteria was defined by the High Council for Public Health (Haut conseil de la santé publique -HCSP) on 14 March 2020.

4. Are civil servants being sent on mandatory annual leave? If not, is use of annual leave recommended? Any other special arrangement on absence management?

Law n ° 2020-290 of 23 March 2020 on the emergency to address the epidemic of COVID-19 authorises the Government to take, by decree, any measure as regards employment law, social security law and of public service law, having as its object "to allow any employer to impose or modify the dates for taking part of the paid holidays within the limit of six working days, by derogating from the notice periods and the methods of taking this leave (...)" . The special leave of absence is not taken into account in the calculation of annual leave. Absence due to special leave of absence does not generate days of time off in lieu (RTT).

5. Any new, special regulations for working overtime (removing limitations to overtime work e.g. for medical staff)?

The texts in force already provide for measures making it possible to derogate from the minimum guarantees of working time, and in particular as regards overtime and its uncapping. In addition,

⁶ https://www.fonction-publique.gouv.fr/files/files/covid-19/20200331-questions_reponses_FP.pdf

different authorities intervene on different sectors of the public service - the state public service, the territorial public service and the hospital public service - to allow the uncapping of overtime.⁷

Article 17 of the Working Time Directive (2003/88 of 4 November 2003) allows derogations from the minimum guarantees in terms of working time for activities characterised by the need to ensure continuity of service (care in hospitals ...), subject to granting to the staff concerned of at least the equivalent periods of compensatory rest. In exceptional cases, when the granting of such equivalent periods of compensatory rest is not possible for objective reasons, appropriate protection must be afforded to the workers concerned.

***In the hospital public service:** when the needs of the service so require, agents may be called upon to work overtime in excess of the hourly limits defined by the work cycle (...) (Article 15 of Decree 2002-9). On 5 March 2020, a decision was taken to allow the uncapping of overtime hours and to authorise public health establishments, on an exceptional basis, for the period from 1 February to 30 June 2020, and for staff involved in taking care of patients, to make transitional use of overtime beyond the ceiling fixed by the aforementioned Article.*

6. Arrangement for paying for extra workload (health care)?

Yes. Please see preceding section.

7. What measures have been introduced to create fiscal space to fund health care, economic measures etc. against COVID-19 (salary cuts, freezing of recruitment, promotions...)?

No measures have been introduced such as the ones cited above e.g. salary reductions, freezing of promotion....

8. Additional information: preparations for the phase following the lockdown

The Prime Minister has appointed a person to be responsible for preparing the phase following the lockdown. This is a high-ranking official who was, a few years ago, director of hospitalisation and the organisation of care and who has been, since 2017, inter-ministerial delegate to the Paris 2024 Olympic and Paralympic Games.

Accountability

1. How did you keep the national parliament operational? Any simplification of parliamentary procedures?

The Parliament has modified its operating procedures. Most meetings are held by video-conference, for example, that of the group presidents. The Parliament examined the amending finance bill, as well as the emergency measures bill. The rules of debate have been adjusted. Voting on these texts was carried out by delegation and only one deputy or senator received delegation from all the members of their group of deputies or senators to vote. The operations of the institution have been restricted. Only two activities continue: the vote on emergency measures issued by the executive, as well as the control exercised by Parliament. This corresponds above all to "current issues in government".⁸

⁷ DGFAP

⁸ <https://www.la-croix.com/France/Politique/Coronavirus-etre-parlementaire-temps-crise-sanitaire-2020-03-19-1201084907>

2. **How about the Ombudsman (e.g. overseeing the situation in prisons)**

Despite the difficulties created by the COVID-19 epidemic, the Defender of Rights continues to fulfil his mission. Central services and the regional network continue to receive and process complaints they receive by post, e-mail and telephone. As a precaution, delegates will no longer maintain weekly consultations until further notice.⁹

3. **Does administrative justice work? Have deadlines changed?**

The Council of State has adjusted the execution of its two functions of Government counsel and administrative jurisdiction. The instruction sessions for the Government's advisory activity take place by video-conference. The adjudication sessions are postponed and the public reception services of the litigation section are suspended. The litigation section's business continuity plan is implemented in order to prioritise urgent cases. So much so that the Council of State continues to issue summary and substantive judgments when it cannot be postponed. The activity of administrative courts of appeal and administrative courts has also been adjusted.¹⁰ Several measures have been implemented by the decrees of 25 March 2020 in order to adapt the applicable rules and the mode of operation of administrative courts. The decree modifies in particular the time limits for appeal and within which the judge must rule, and allows the latter to decide on the holding of a video-conference hearing and on the presence or not of the public at a summary hearing.

4. **Any public debates on respect of principles of good administration (legality, proportionality, predictability) of protective measures?**

The measures taken by the Government have triggered public debate. Some evoke the current lockdown, and concerns about its longer-term consequences on democracy and freedom. Others encourage citizens to consider, reflect, criticise and ensure that "physical detention will not be combined with intellectual and political detention".¹¹

Security measures that must not spill over: following terrorism acts which still persist, there was an extension of the state of emergency and the inclusion of some of its provisions in the regular laws. Pandemics can return so there is a worry about keeping these exceptional practices present in regular laws. For example: geo-tracking, and everything that allows surveillance.

The right of withdrawal, like any entitlement granted to civil servants, must be able to be articulated with the need for continuity of public service and preservation of public order. During a pandemic, personnel who are exposed to the risk of contamination of the virus due to the nature of their usual activity (health personnel; personnel responsible for collecting and treating waste, for example), cannot legitimately exercise their right to withdrawal, for the sole reason of exposure to the virus. In the current context, insofar as the employer has implemented the national provisions and recommendations (<https://www.gouvernement.fr/info-coronavirus>) aimed at protecting the health and ensuring the safety of its personnel, and has informed and prepared staff, the individual right of withdrawal cannot in principle be exercised.

*In addition, a **Parliamentary Fact-finding Mission** was created to work "on the impact, management and consequences in all its dimensions of the coronavirus epidemic" and to monitor the work of the executive. The opposition accuses the executive of wanting to stifle freedom of expression, points out the Government's errors in the management of the pandemic, and questions the political responsibilities for the shortage of masks and tests, the overcrowding of emergency services and the*

⁹ <https://www.defenseurdesdroits.fr/actualites/2020/03/covid-19-face-aux-risques-de-contamination-le-defenseur-des-droits-demande-la>

¹⁰ <https://www.conseil-etat.fr/actualites/actualites/organisation-des-juridictions-administratives-pendant-le-confinement>

¹¹ François Sureau, écrivain et avocat, invité du « grand entretien » de Nicolas Demorand et Léa Salamé – France Inter – mercredi 1^{er} avril - <https://www.franceinter.fr/emissions/l-invite-de-8h20-le-grand-entretien/l-invite-de-8h20-le-grand-entretien-01-avril-2020>

lack of ventilators. Others fear that the first economic provisions will lead to abuses in the area of employment law and that the simplification of criminal procedures will lead to an eclipse of the law. On 1 April, a hearing with the Prime Minister and then with the Minister of Solidarity and Health, was organised. Other hearings will follow, notably of key figures from the medical world, who may, if necessary, be heard behind closed doors. The work of the fact-finding mission takes place by video-conference.

Service delivery

1. Which services are being delivered (all, some, only the essential)?

All essential services are provided: water, gas, electricity, internet, household waste collection, home help services and distribution of meals to the elderly at home, etc. Others are rather limited: mail deliveries, etc.

With regard to other public services, the Directorate of Legal and Administrative Information (Prime Minister) - published information on the possible means of contacting public services, their organisation and their arrangements for receiving the public during the lockdown, such as : courts, post offices, police stations, prefectures, family allowance funding offices, retirement fund offices, Pôle Emploi (unemployment centres) etc.¹²

A range of online services already exists and continues to be provided concerning:

Change of address online; request for birth certificate: full copy or extract (birth in France); request for registration on the electoral lists, report of bank card fraud; record and administrative situation of a used vehicle; calculation of contributions deducted from pay; online purchase of tax stamps for passports; record of driving license points; renewal of vehicle registration (loss, theft or deterioration).

Other state services are provided online and/or with physical presence and others are temporarily suspended. The services vary according to the organisations that deliver them, the town halls and the cities. Below are some examples:

Birth and death certificates: In Paris, the district town halls remain open, but to comply with lockdown measures, only emergencies will be dealt with. Certain public services in several district town halls have been merged into one. The procedures for declaring births or deaths for a district whose service has been merged, must be carried out by e-mail on the district's e-mail. In other cities, opening hours are assured one day per week for people to attend and start procedures (several cities in the Ile de France region around Paris).

Passports, identity card: The appointments to file a request for identity documents are all cancelled and the withdrawal of documents is postponed until the services are reopened. For emergency cases, it is recommended to contact your town hall by telephone or e-mail.

Vehicle registration: online procedures relating to registration are always available 24 hours a day, 7 days a week, on the website www.registration.ants.gouv.fr; the production and dispatch of the vehicle registration is still ensured but the production and dispatch times will be extended.

An **online platform** for reporting gender-based or sexual violence, as a victim or witness, and to benefit from assistance and advice. Free, anonymous, secure service available 24 hours a day, 7 days a week.¹³

¹² <https://www.service-public.fr/particuliers/actualites/A13967>

¹³ <https://www.service-public.fr/particuliers/actualites/A13977>

2. Are there any modifications done to the obligations of:

- i. *the administrations towards citizens/businesses (e.g. freezing of deadlines)?*

Faced with the COVID-19 coronavirus epidemic, the Government has put in place immediate support measures for businesses, business owners and self-employed workers¹⁴ regarding payment deadlines for social and/or tax payments (URSSAF, direct taxes) ; direct tax rebates which can be decided as part of an individual examination of requests; The deferral of the payment of rent, water, gas and electricity bills for the smallest businesses in difficulty; aid of up to EUR 1.500 for very small businesses, the self-employed, the liberal professions and small business owners most affected by the solidarity fund financed by the state and the regions; the mobilisation of the state to the tune of EUR 300 billion to guarantee the bank cash lines that companies may need because of the epidemic; support from the State and the Banque de France (credit mediation) to negotiate with banks a rescheduling of repayment of bank loans; maintaining employment in businesses through the simplified and strengthened partial unemployment scheme; support for the handling of a conflict with customers or suppliers by the Business Ombudsman; recognition by the state and local communities of coronavirus as a case of force majeure for public procurement. Consequently, for all state and local public contracts, penalties for delay will not be applied.

- ii. *citizens/businesses towards public administration (reporting, payments of taxes, contributions, fees...)?*

The 2020 deadlines have been extended for 2019 income tax returns:¹⁵ decree n ° 2020-306 of 25 March 2020 prolongs the deadlines that fall between 12 March 2020 and one month after the end of the health state of emergency.

The extension of the deadlines that expired during the health emergency period and the adaptation of the procedures during this same period apply, with exceptions, to: steps to be taken during this period concerning appeals, legal action, formalities, registration, declaration. The deadline is extended within the limit of two months following the end of the health emergency.

Administrative or jurisdictional measures: bans, authorisations, licenses, approvals, assistance. The deadline is extended by two months following the end of the health emergency.

Penalties: *they take effect from the end of a period of one month following the end of the health emergency.*

The deadlines imposed by the administration to carry out a control, works, or to comply with a rule are interrupted until the end of the health emergency, with exceptions. A decree must indicate these exceptions. Claims recovered by the Treasury are suspended until the end of a period of two months following the end of the health emergency period.

(Please also read 2.i above).

3. Has the crisis initiated any simplifications or enhanced the use of alternative tools:

- i. *in the internal procedures of the Government (e.g. acceptance of formal approvals over e-mail)?*

¹⁴ <https://www.economie.gouv.fr/files/files/PDF/2020/Coronavirus-MINEFI-10032020.pdf>

¹⁵ <https://www.service-public.fr/particuliers/actualites/A13968>

The French administration is already digital. For certain essential procedures that require a physical presence, the State is starting to reorganise, for example: the extension of all residence permits expiring during lockdown, by decree.

- ii. *in the administrative procedures with citizens and businesses (e.g. replacement of handwritten signature with scanned copies or simple exchange of mails)?*

In France, legally speaking, an electronic signature has the same value as a paper signature, subject to the use of "a reliable identification process guaranteeing its link with the act to which it is attached". The electronic signature is admissible as evidence before any court.

Public financial management

- 1. Are COVID-19 response measures being introduced within the framework of or with reference to existing fiscal rules (budget deficit or public debt ratio limits etc.)?**

The costs of the tax package for households and businesses, as well as for the health sector, are officially estimated (as of 17 March) at around EUR 45 billion, or 1.9% of 2019 GDP, covering both expenses and taxes. This estimate is based on the assumption of 600 million hours covered by the plan over two months. The main budgetary costs are the postponement of social and tax deadlines (EUR 32 billion); the partial unemployment scheme (EUR 8.5 billion), health measures (EUR 2 billion) and the solidarity fund (EUR 1 billion) for the self-employed and small businesses. The amending finance law provides for a deficit of 3.9% of GDP, compared to 2.2% in the initial finance law. It is based on a growth forecast of -1%, against + 1.3% in the initial finance law. The assumption underlying the growth forecasts is aligned with those established by the institutions of the European Union and will be revised in the event of further deterioration of economic conditions.¹⁶

- 2. Are the cost of these measures being published?**

Yes. Please consult the figures of the law n° 2020-289 of 23 March 23 2020 of amending finance for 2020.¹⁷

- 3. Have budget users been asked to identify cost-saving measures to partially offset the cost of the response measures?**

Information currently unavailable.

- 4. Are internal controls continuing to operate smoothly (electronic signatures)?**

It would appear so.

- 5. Does each budget user or at least ministry have a risk management strategy that envisaged emergency measures in response to a sudden crisis? How is staff and customer safety balanced against the need to deliver required services?**

Yes. Please refer to point 2 of the section "Centre of Government, Policy Co-ordination and Decision Making".

¹⁶ Initial Budget and Public Management Responses to the Coronavirus (COVID-19) Pandemic in OECD Countries - Working Document- Public Governance Directorate – OECD - 03 April 2020

¹⁷ <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041746298&categorieLien=id>