



## PRESS RELEASE

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Finance and public accounts

### DELEGATED MANAGEMENT OF LOCAL PUBLIC SERVICES

**Based in particular on the audits carried out by the Regional and Territorial Chambers of Accounts, the Court has examined the conditions under which local authorities and their groupings delegate the management of local public services to private companies.**

**The Court proposes a series of measures to ensure that the choice of management method for local public services is properly informed, that in the event of management being delegated to a private company there is an effective call for competition, that in-depth negotiations take place with candidate companies and that the relationship with the chosen delegatee company is balanced from the beginning to the end of the delegation contract.**

#### **Delegation, one of the ways in which local public services are managed**

With a few exceptions, local authorities and their groupings (in particular cities, inter-municipal bodies and associations of cities) can manage the public services within their jurisdiction directly (on a self-managed basis, through a public establishment or a local public company) or delegate their management to a private company or a semi-public company, chosen following a call for tenders.

Delegating to a private company reflects the desire to outsource complex technical management, investment financing and operating risk. In return, the delegatee companies are remunerated by the payment of a price by the users of the service, often supplemented by a contribution from the local authority.

A wide variety of public services are involved: passenger transport, water, wastewater, waste, district heating, school canteens, cultural and sports facilities, etc.

#### **Relations with companies sometimes unbalanced to the detriment of local authorities**

Based on the audits carried out by the Regional and Territorial Chambers of Accounts, the Court's report highlights risks, situations to be avoided and best practices to be favoured. In particular, this concerns the sharing of risks between the delegating authority and the delegated company, the profitability of contracts and the duration of contracts.

While the rules of law stipulate that delegated companies must be exposed to the vagaries of the market and the risk of losses, some contracts do not involve any real risk for the delegated company, which is in fact largely borne by the local authority.

Even if the initial contract provides for a balanced sharing of risks, the riders that punctuate the life of the contracts can lead to a change in the initial balance in favour of the company. Local

authorities often agree to help delegated companies cope with foreseeable economic contingencies by means of riders. On the other hand, they often do not benefit sufficiently from unforeseen gains, even large ones, that may be made by the delegates. Finally, the delegation contracts do not systematically provide for penalties in the event of failure to meet service quality objectives or transmit documents. When this is the case, local authorities do not always apply them.

In addition, some contracts show abnormally high profitability for the delegated companies, and this profitability is sometimes difficult to identify, due to unequal justification of the costs invoiced by the parent company or by companies in the same group.

The excessive duration of certain delegations can distort the normal play of competition and give the delegatee an advantage. While the maximum duration is capped in some areas (water, sanitation and passenger transport), this is not the case in others.

Lastly, local authorities must ensure that contracts include all the financial and management data they need to exercise their control over the delegations and to keep an accurate inventory of the assets of the delegated activity, even though some of these assets (returnable assets) revert to them when the delegation contract ends.

### **Encouraging greater control of public service delegations by local authorities**

The Court expresses no preference for public services to be managed internally by local authorities or outsourced to private companies. On the other hand, it believes that a better balance is needed between the rights and obligations of delegates and local authorities.

To this end, it is making five recommendations to the ministries responsible for the economy and local authorities: publish summary data on public service management delegations, so that they cease to be a "blind spot" in public management; specify the content of the report that proposes the choice of management method to the deliberative assembly; stipulate that delegation contracts must include a provisional operating account and a list of planned investments, to be updated with each amendment; finally, in order to facilitate changes of management method or operator, allow the public authorities access on first request to all data relating to the operation of the delegated public service and extend the minimum period for transmitting data relating to the water and sewerage networks before the end of the delegation period.

The Court also suggests seven courses of action for local authorities: systematically include financial return clauses in delegation contracts in their favour when the results of the delegation significantly exceed forecasts; provide for and apply penalties if objectives are not achieved; monitor the profitability of delegations; define the data to be transmitted to the authority; monitor the assets reverting to the authority or to the company at the end of the delegation; provide for the consequences of early termination of the delegation in the initial contract; secure the operation of the service until the end of the delegation and the transmission of the information necessary for the continuity of the service.

[Read the report](#)

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