

Opinion n° HCFP-2023-3

on the draft Ministry of Justice's orientation and programming bill for 2023-2027

30 March 2023

Summary

The Government referred to the High Council of Public Finance the provisions of the orientation and programming bill for the Ministry of Justice (PLPJ), for the period 2023-2027, having an impact on public finances. The organic law provides that the High Council shall assess the compatibility of these provisions with the expenditure targets set out in the current public finance programming law (LPFP) or, failing that, in the introductory article of the last budget law.

In the absence of a programming law, and since the introductory article of the 2023 budget law only covers the year 2023, the High Council is able to formulate an opinion as provided for by the organic law only for the year 2023. A programming law is essential to enable the High Council to fully exercise its mandate.

As the High Council recalled in its opinion on the draft military programming bill, this difficulty illustrates once again the absolute necessity of having a programming law setting a multi-year trajectory for public finances, in accordance with France's organic provisions and European commitments. The High Council therefore calls for the rapid adoption of a credible and ambitious LPFP to provide a multi-year anchor for public finance management.

Nevertheless, in accordance with the Government's request, the High Council examined, for the information of the Parliament and the citizen, the compatibility of the PLPJ with the trajectory proposed by the draft public finance programming bill (PLPFP) tabled in Parliament on 26 September 2022.

The High Council notes that the budgetary appropriations for the Justice mission in the PLPJ are in line with those voted in the budget law for 2023 and are identical to those in the PLPFP for the years 2024 and 2025. According to the Government, this would also be the case for 2026 and 2027, which the High Council cannot check, as the PLPFP only presents the budgetary appropriations for the first three years of the programme. The recruitment difficulties in the civil service pose a risk to the execution of the projected employment pattern and to the under-execution of the wage bill trajectory. Conversely, the risk that inflation will continue to surprise on the upside could require additional appropriations, in particular for the important real estate investments forecast in the PLPJ.

Finally, the High Council notes that the PLPJ, together with the draft military programming bill and the programming laws already enacted, would constrain the other State expenditure from 2024 onwards. This would imply a significant and, to date, poorly documented effort to control expenditure, as mentioned by the High Council in its opinions on the PLPFP and on the draft military programming bill.

I- Introductory remarks

1- On the scope of this opinion

1. The High Council of Public Finance was informed by the Government, pursuant to Article 61-VII of the amended organic law n° 2001-692 of 1st August 2001 relating to budget laws, of the provisions of the draft Ministry of Justice's orientation and programming bill (PLPJ) that have an impact on public finances, in order to assess the compatibility of these provisions with the expenditure targets set out in the current public finance programming law (LPFP) or, failing that, in the introductory article of the last budget law.

2. As the High Council had already pointed out in the referral on the draft military programming bill, no public finance programming law is in force, as the programming bill for the period 2023-2027 submitted by the Government in September 2022 has not been adopted. For its part, the introductory article of the 2023 budget law relates only to the year 2023 and does not include provisions for the years 2024 to 2027, which are also covered by the draft Ministry of Justice's orientation and programming bill.

3. **The High Council is therefore only in a position to formulate an opinion in the terms provided for by the organic law for the year 2023. A programming law is essential to enable the High Council to fully exercise its mandate by examining the consistency of the expenditure trajectory of the justice programming bill with that of the public finance programming.**

4. **This difficulty illustrates once again the absolute necessity of having a LPFP setting a multi-year trajectory for public finances, in accordance with France's organic provisions and European commitments. The High Council therefore calls for the rapid adoption of a credible and ambitious LPFP to provide a multi-year anchor for public finance management.**

5. **Nevertheless, in accordance with the Government's request, the High Council examined, for the information of Parliament and the citizen, the compatibility of the PLPJ with the trajectory proposed by the draft public finance programming bill tabled in Parliament on 26 September 2022, which was also included in the economic, social and financial report annexed to the 2023 budget law (page 72).**

6. The High Council notes, however, that the PLPFP trajectory has not been updated to consider, in particular, the amendments made to the budget bill during the parliamentary debate, which led to an additional expenditure of €8bn in the 2023 initial budget law (LFI) compared to the PLPFP expenditure target. While the LFI covering the first year of the previous PLPFP was strictly consistent with the latter, the 2023 one thus deviates from the PLPFP by significant amounts.

2- On information provided and deadlines

7. On 17 March 2023, the Government referred to the High Council of Public Finance the provisions of the draft Ministry of Justice's orientation and programming bill that have an impact on public finances. This referral was accompanied by detailed responses to a questionnaire that had previously been sent by the High Council to the relevant administrations.

3- On the method used by the High Council

8. In order to assess the compatibility of the provisions of the Ministry of Justice's orientation and programming bill that have an impact on public finances with the spending objectives set out in the PLPFP, the High Council based itself on the information provided by the Government in its referral and in the responses to the questionnaire sent to it by the High Council.

9. The High Council also relied on previous analyses by the *Cour des comptes* and on its own analyses, based on public data presented in the annual performance projects and reports (PAP and RAP).

10. As permitted by Article 61-IX of the organic law, the High Council held hearings with representatives of the competent administrations (Treasury and Budget Directorates, General Secretariat of the Ministry of Justice).

II- Compatibility assessment of the provisions of the PLPJ with the PLPFP expenditure targets

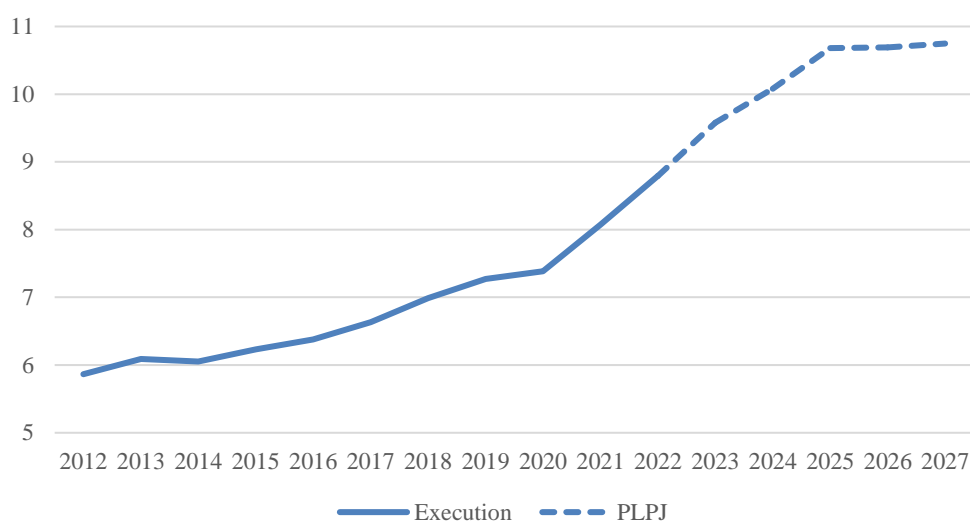
11. The High Council first examines the compatibility of the payment appropriation trajectory defined in the PLPJ with the appropriation ceilings of the missions defined in the PLPFP, and then the compatibility of this path with that of the new budget aggregate, the “delineation of State expenditure”¹, by highlighting the consequences for expenditure not covered by a programming law.

a. Compatibility of the PLPJ payment appropriations trajectory with the appropriations ceilings allocated to the missions of the general budget in PLPFP

12. The trajectory defined by the PLPJ reflects a continued increase in the appropriations for the *Justice* mission in current euros over the period 2023-2025, then an almost stabilisation over 2025-2027. On the one hand, the employment pattern is dynamic over the whole period, with, however, stronger net job creation at the beginning of the period (2023-2025). On the other hand, the major real estate and digital investments, some of which were launched in the previous LPJ 2018-2022, would be made more at the beginning of the period and would peak in 2025 before decreasing, which would compensate for the planned increase in the wage bill.

¹ This new aggregate presented in the PLPFP covers State expenditure in the broad sense of the term: appropriations from the general budget, annexed budgets, certain special accounts, capped taxes and levies on revenue to the European Union and local authorities. However, this scope excludes the debt burden, expenditure on contributions to civil and military pensions, and refunds and rebates.

Graph n°1: execution and programming of the Justice Mission - in €bn - constant scope - excluding pension costs



Sources: RAP, PLPJ

Note: the expenditure on the past is calculated on a constant perimeter, hence possible differences with the amounts appearing in the RAPs

13. The High Council’s mandate concerns the compatibility of the provisions of the sectoral programming laws with the expenditure aggregates in national accounts, including all general governments, measured in billions of current euros and in volume growth rates. However, the draft Ministry of Justice's orientation and programming bill only provides data on the appropriations of the *Justice* mission in budgetary accounting and not on the corresponding data in national accounting, whose recording principles are not identical.

14. Under the plausible assumption that the keys to transcribe the amounts from budgetary accounting into national accounts are identical in the PLPFP and in the PLPJ, the compatibility of the PLPJ expenditure with the national accounting expenditure aggregates of the PLPFP can be assessed by analysing the expenditure amounts of the *Justice* mission presented in the two texts.

15. The PLPFP provides for the appropriations ceilings for the missions of the general budget excluding pension funding, expressed in budgetary accounting, at constant scope, for the years 2023 to 2025. In the 2023 LFI, the appropriations for the *Justice* mission excluding pension costs are set at €9.6bn in accordance with the PLPFP for 2023 and in accordance with the present PLPJ. For the years 2024 and 2025, the trajectory set by the PLPJ is in line with the one set by the Government in the PLPFP.

Table 1: ceilings of appropriations allocated to the *Justice* mission of the general State budget (in €bn)

Payment appropriations (excluding pensions funding)	LFI 2022	LFI 2022 – with 2023 format	2023	2024	2025
LFI 2023			9.6		
PLPFP	8.9	8.9	9.6	10.1	10.7
PLPJ			9.6	10.1	10.7

Sources: PLPFP, PLPJ

16. For the period 2026-2027, the PLPFP does not provide payment appropriations for the missions of the general budget. While the Government indicates that the *Justice* mission appropriations underlying the PLPFP are identical for these two years to those in the PLPJ, the High Council cannot check it.

17. The previous LPJ 2018-2022 was broadly complied with, with a catch-up at the end of the period compensating in 2021 and 2022 for the under-execution of the 2018-2020 period.

Table 2: Justice programming laws 2012-2022: programming and execution (current scope, excluding pension costs) in current €bn

	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
LPJ							7.0	7.3	7.7	8.0	8.3
LFI	6.0	6.2	6.3	6.3	6.6	6.9	7.0	7.3	7.6	8.2	8.9
Execution	5.9	6.1	6.2	6.3	6.4	6.7	6.9	7.2	7.4	8.1	8.8

Sources: PAP, RAP and notes on the budgetary execution (NEB) of the Justice mission from the Cour des comptes.

18. However, the trajectory of the current PLPJ is based on an ambitious employment plan, with the recruitment of 10,000 additional FTEs (*i.e.* approximately 10% of the jobs in the *Justice* mission). These recruitments may not be fully carried out, due to recruitment difficulties in the civil service and in particular those specific to the justice professions, especially as this trajectory requires adjustments to existing access routes to these professions, the terms of which are not yet fully defined. Conversely, the risk of higher than expected inflation, which would affect the construction sector, could require additional funding to enable the major investments planned in this PLPJ to be made.

19. **The High Council notes that the budgetary appropriations for the Justice mission in the PLPJ are in line with those voted in the LFI for 2023 and are identical to those in the PLPFP for the years 2024 and 2025. According to the Government, this would also be the case for 2026 and 2027, which the High Council cannot check, as the PLPFP only presents the budgetary appropriations for the first three years of the programme. The recruitment difficulties affecting the civil service pose a risk to the execution of the forecast employment scheme and, consequently, to the under-execution of the wage bill trajectory. Conversely, the risk that inflation will continue to surprise on the upside may require additional appropriations, in particular for the important real estate investments included in the PLPJ.**

b. Implications for the trajectory of other expenditure presented in the PLPFP

20. In addition to directly examining the compatibility of the provisions of the draft Ministry of Justice's orientation and programming bill with the planned spending objectives of the *Justice* mission of the PLPFP, the High Council considers it useful to present the possible impact of the spending planned by the PLPJ as well as the other programming laws already enacted on the rest of the State budget's spending in order to ensure compliance with the overall spending objective.

21. To this end, the High Council calculated the amount of expenditure in the new “delineation of State expenditure” net of the expenditure planned by the draft Ministry of Justice's orientation and programming bill and by the sectoral programming laws that will have an impact on public expenditure in the coming years: the orientation and programming law of

the Ministry of the Interior (LOPMPI) of 24 January 2023 (2023-2027), the programming law for research (LPR) of 24 December 2020 (2021-2030), and the draft military programming bill (PLPM) (2024-2030).

Table 3: expenditure in the delineation of State expenditure

	2023	2024	2025	2026	2027
Total state expenditure planned in the PLPFP (in current €bn)	480.0	485.0	496.0	501.0	509.0
Total State expenditure planned in the PLPFP (growth rate in volume*, in %)	-6.1	-1.9	0.2	-0.7	-0.2
Expenditure covered by sectoral programming laws, including the PLPJ (in €bn)	99.3	104.4	109.6	113.7	117.9
Expenditure covered by sectoral programming laws including the PLPJ (growth rate in volume*, in %)	-0.5	2.1	2.9	2.0	2.0
Other expenditure not covered by these programming laws (in €bn)	380.6	380.6	386.40	387.3	391.0
Other expenditure not covered by these programming laws (growth rate in volume*, in %)	-7.4	-2.9	-0.5	-1.5	-0.8

* Deflated with the consumer price index excluding tobacco.

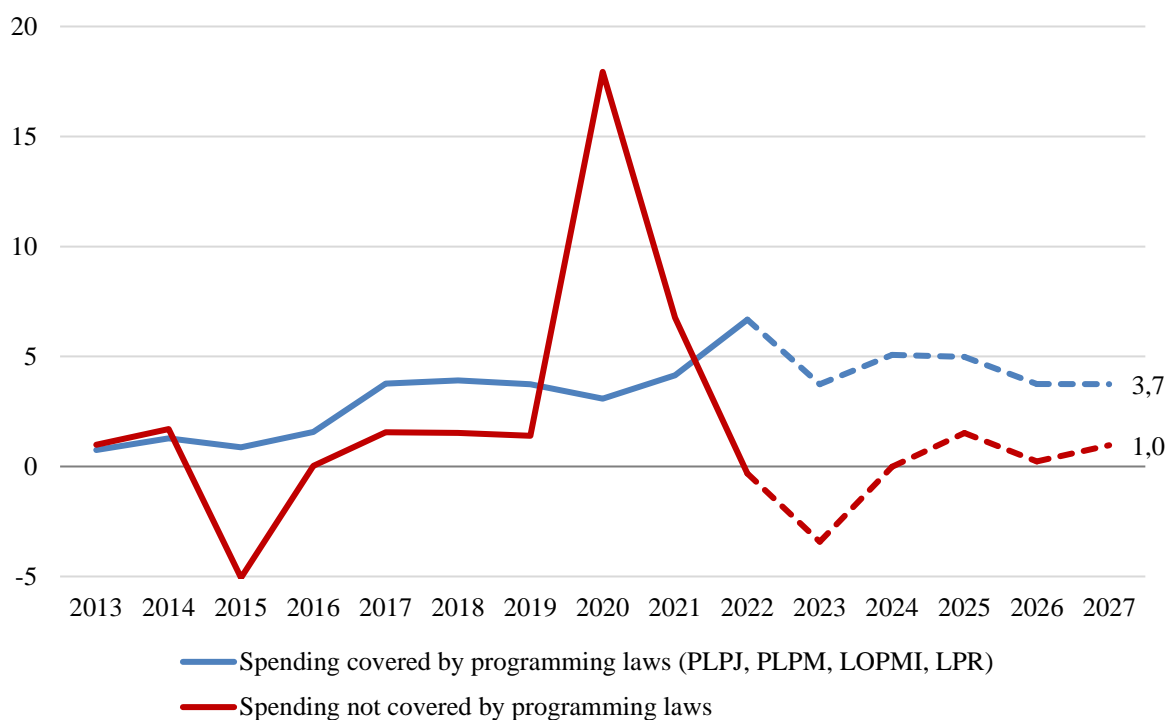
Sources: PLPFP, PLPJ, sectoral programming laws, High Council calculations.

22. These calculations show that the appropriations covered by these programming laws will grow faster than total State expenditure, requiring, in order to meet the spending target set in the PLPFP, a low growth in other spending in value terms between 2023 and 2027 (+0.7% on average, see graph 2), corresponding to a decrease in this spending in volume terms over the period (-1.4% on average, see graph 3²). The evolution of expenditure not covered by these programming laws should thus be even more constrained than in the last decade, when it decreased in volume by 0.4% on average between 2012 and 2019.

23. In its opinion of 26 September 2022 on the PLPFP for 2023-2027, the High Council already noted that the PLPFP provided for an ambitious trajectory of State expenditure control. Recent programming laws confirm the magnitude of the effort expected under the PLPFP, which should therefore concern credits not covered by sectoral programming laws.

² As the Government did not provide the amount of this new perimeter in the past, it was reconstituted by the Permanent Secretariat of the High Council on the basis of available public information. See Opinion n° HCFP-2023-2 on the military programming bill for 2024-2030 (Annex 2) for details of the method used for this purpose.

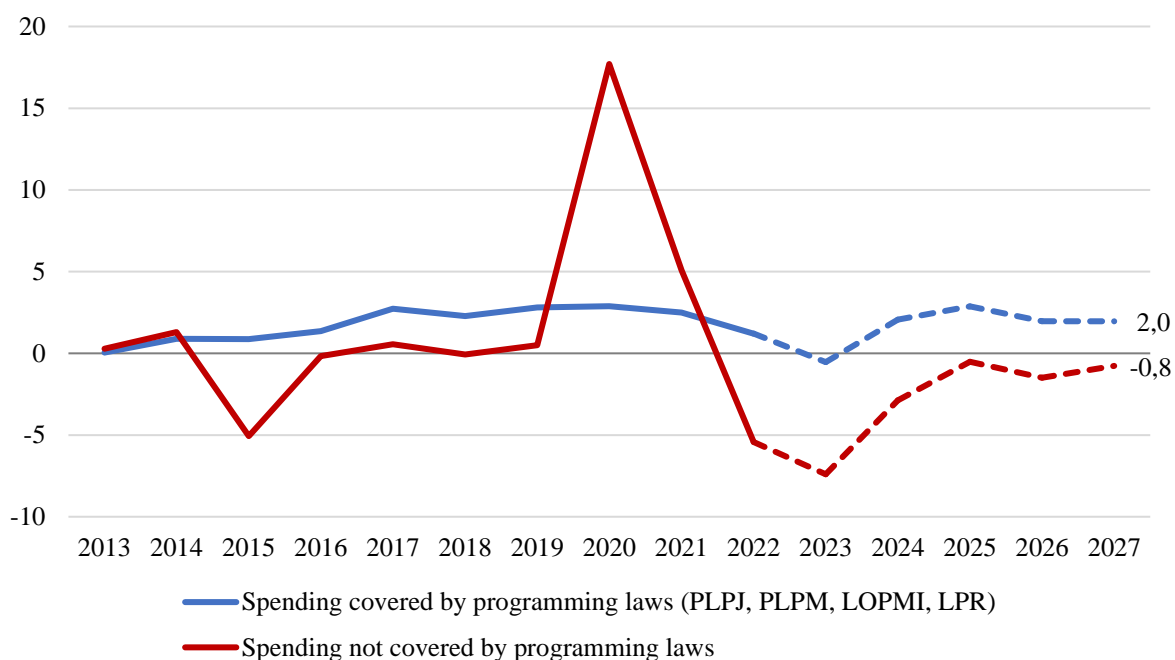
Graph 2: growth in State expenditure between 2013 and 2027 in value (constant scope – 2022 perimeter – in %)



Sources: Budget execution analysis notes (NEB) and State budget reports (RBDE) produced by the Cour des comptes, programming laws, PLPJ, PLPM, PLPFP.

Interpretation: an increase in spending under the programming laws (PLPJ, PLPM, LOPMI, LPR) of 3.7% in value terms is forecast between 2026 and 2027. As a result, expenditure outside the programming laws is expected to increase by 1.0% in value terms in 2027, in order to meet the spending target set in the PLPFP.

**Graph 3: growth in State expenditure between 2013 and 2027 in volume
(Constant scope - 2022 perimeter - in %)**



Sources: Budget execution analysis notes (NEB) and State budget reports (RBDE) produced by the Cour des comptes, programming laws, PLPJ, PLPM, PLPFP.

Interpretation: an increase in spending under programming laws (PLPJ, PLPM, LOPMI, LPR) of 2.0% in volume is forecast between 2026 and 2027. As a result, expenditure outside the programming laws is expected to fall by 0.8% in volume in 2027, in order to reach the spending target set in the PLPFP.

24. **The High Council notes that the PLPJ, in conjunction with the programming laws already enacted and the PLPM, would severely constrain other State expenditure. This would imply a significant and, to date, poorly documented effort to control spending, as the High Council mentioned in its opinion on the PLPFP and more recently in its opinion on the PLPM.**

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This notice will be published in the Official Journal of the French Republic and attached to the draft orientation and programming law of the Ministry of Justice.

Paris, 30 March 2023.

For the High Council of Public Finance,
The First President of the *Cour des comptes*,
President of the High Council of Public Finance

Pierre MOSCOVICI

Annex 1: PLPJ provisions with an impact on public finances

TITRE I OBJECTIVES AND MEANS OF THE JUSTICE MINISTRY

Article 1

The report defining the guidelines and programming of the resources of the Ministry of Justice for the period 2023-2027, annexed to this Act, is approved.

The payment appropriations of the Ministry of Justice, excluding pension costs, will evolve over the period 2023-2027 in accordance with the following table:

(In millions of euros)

PAYMENT APPROPRIATIONS <i>excluding "Pensions" funding</i>	2022 (for the record)	2023	2024	2025	2026	2027
Budget of the Ministry of Justice, in €m	8,862	9,579	10,081	10,681	10,691	10,748

The net creation of jobs in the Ministry of Justice is set at +10,000 full-time equivalents between now and 2027, including +1,500 additional magistrates and +1,500 additional court clerks, and including +605 full-time equivalents recruited in 2022 for local justice.

The budgetary scope concerned corresponds to that of the 'Justice' mission: 'Judicial Justice', 'Prison Administration', 'Judicial Protection of Youth', 'Access to Law and Justice', 'Conduct and Management of Justice Policy' and 'High Council of the Judiciary' programmes.