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Local Authorities in Tunisia Face Challenges of Post-COVID Economic Recovery

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A municipality worker carry out disinfection works as a precaution against COVID-19 in Bizerte, Tunisia, April 2020. © AA/Nacer Talel



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Like other countries in the world, Tunisia has had to face an unprecedented epidemic threatening both the health of its population and its security. Only through a national effort was it able to slow the spread of the scourge and gradually bring it under control. Whilst the sheer number of actors involved in the management of the pandemic increased the country's chances of emerging from the crisis, it also gave rise to conflicts of competence, mainly between the central and devolved levels.

Tunisian *communes* (municipalities), whose councils have recently been elected,¹ are not prepared for this type of crisis and are not equipped with the human, logistical or financial resources to manage the situation.

The figures currently announced by the Tunisian government look reassuring in terms of controlling the epidemic in the country's various cities; however, several major issues are at stake in the aftermath of the crisis.² Indeed, the collateral effects of the COVID-19 pandemic go far beyond the health sector. The country's economy, which had already been in distress, came to a complete standstill following various decisions at the highest level of government, including those that established nationwide confinement and then systematic de-confinement.³

The already bleak economic balance sheet reveals the gravity of the social crisis that was experienced during the pandemic, particularly at the local level by certain population groups. These include the most vulnerable, whose situation worsened more than others'.⁴

On 13 July 2020, whilst the prime minister was under investigation for conflict of interest, the minister for major projects presented the post-COVID Economic Recovery Plan.⁵ The plan primarily offers companies financial support, but also provides other assistance with surviving the crisis. The government also intends to boost investment: a high-level authority will be in charge of monitoring the implementation of state projects within the country. At this level, the communes will certainly have a role to play, even if the plan does not mention them as fully-fledged actors. Finally, recovery will need to rely on public administration, including local administration. The government also has a plan to encourage more than a thousand central government officials to join local authorities to boost staff numbers.



What role can local authorities play as part of the new recovery plan, given the opportunities offered by the Local Government Act (CCL) and the real constraints facing these new devolved structures? Lessons have certainly been learned from managing the COVID-19 pandemic, but the resignation of the prime minister on 15 July 2020 plunged Tunisia into a renewed political crisis.⁶

The tools of recovery: the CCL gives municipalities powerful leverage

The CCL offers a wide range of possibilities for municipalities to intervene at the economic, social, planning and environmental levels by making them co-managers of the recovery policy from a sustainability perspective.

Tools for including recovery in municipal strategies and plans

Every recovery needs a plan and a strategic vision. Recovery planning must therefore be carried out at two levels: as general local development planning and as more specific planning by the municipality for its territory.

This demonstrates the importance of the local development plan, which is the framework for municipalities to carry out their various programmes and projects for the duration of their mandates. This paper is particularly interested in this strategic tool, which is set out in the CCL article on “Local Development”.⁷

When preparing their local development plan, municipalities take into account the need to make development sustainable, to encourage young people, to sustain employment, to support projects linked to the fight against poverty, etc. These components are crucial for strategies for municipal recovery, which are all the more necessary today in the aftermath of the health and economic crises. The plans must assess the resilience of current municipal policies in the face of the crisis and its extensions.

Planning is also a key tool for municipalities to support sustainable urban



development. Thus, the Urban Development Plans aim to improve cities' facilities, planning, development and renovation for the improved well-being of their occupants, including in terms of health. More than ever before, these plans need to be a vector for making cities more attractive; they must contribute to territorialising the “principles of sustainable development” and its objectives.⁸

Tools for sustainable investment

Several policy areas linked to decentralisation could provide the components of a post-COVID recovery: regional planning, transport, housing policy, energy policies, waste management, unemployment issues, culture, the various local public services, etc. All of these show that local areas could contribute to a real “sustainable” recovery.

A quick look at the *communes*' own competences shows how they could contribute to a post-COVID revival. The *commune* is responsible for implementing the “economic, social, cultural, environmental, and urban development of the area”, making it a driving force for local development.⁹

Title 4 of the CCL also merits particular attention because its heading, “Companies, participation and local development”, reflects the legislators' desire to give municipalities a pivotal role in economic and social matters. Article 109 of the CCL enshrines the notion of the green economy and refers to one of its corollaries, namely the social and solidarity economy. This purpose is further encouraged by the Tunisian state which, in the same article, undertakes to “provide loans to support social and solidarity economy projects, and projects contributing to the integration of rural women and persons with disabilities into economic and social life”.

The recent law on the social and solidarity economy will undoubtedly be a recovery tool, including at the local level, through the financial and fiscal support it gives to companies and organizations in the social and solidarity economy.¹⁰

As regards the fiscal aspect, the CCL grants local authorities deliberative powers to set duties, taxes and charges under Article 139.¹¹ These deliberative powers are important for more than one reason and recognize the competence of the



municipality to levy “any other charges” that it deems necessary, thus enabling it to use “local tax expenditure” as a lever for development, particularly since the central government can transfer part of this charge to local authorities. On this basis, the Act authorizes the municipality to levy certain fees, duties and taxes, particularly environmental ones.¹²

Finally, local authorities have the right to receive donations from private individuals to implement specific projects of general interest, in this case projects related to economic, social or environmental development.¹³

Even though the municipalities do not possess primary powers over taxes, the CCL allows them to replenish their finances through inter-municipal cooperation by carrying out development projects related either to certain economic and social activities or to the innovative “renewable energy” sector.¹⁴ Such cooperation is bound to develop further since several state and non-state organizations have already announced that they will provide support to Tunisia for its post-COVID recovery.¹⁵

Similarly, the plan will encourage local authorities to rethink their relationship with the private sector and promote this partnership, which is now a strategic choice for Tunisia. One of its expressions is public-private contracting.¹⁶

Tools to reduce vulnerabilities

Vulnerabilities are numerous and can be economic, social, environmental, or related to health. The Act encourages municipalities to allocate as much funding as possible “to help persons with special needs, persons without family support, and children and women who have been victims of violence”.¹⁷

In view of the economic role that women can play at the local level, there are clear references to the loans allocated by local authorities for development and planning programmes that take into account “the need to ensure social equality and equality of opportunity between the sexes”. The CCL and the recovery project both link local development to the needs of these groups, which are often marginalized and excluded from local projects.



In economic terms, Article 107 allows a local authority to provide direct or indirect aid to businesses located on its territory in the form of loans, grants, or making land available for development.

This financing system is supported by the principle of solidarity, which presupposes redistributing aid from the “solidarity equalization fund”. The fund uses the tool of positive discrimination to favour areas and population groups that are in need or excluded from economic and social development.¹⁸

The challenges of recovery: many obstacles for municipalities

The experience of municipalities during the crisis has enabled them to identify any shortcomings, and gauge their ability to meet the challenges of recovery.

Shortcomings related to the institutional framework

By institutional framework, this paper means the accompaniment and support given by the different deliberative bodies, but also by local authorities. It also concerns the relationship between city councils and their standing committees. Beyond the diversity and plurality of such committees, especially those that can intervene in socio-economic issues, it is the issue of governance that merits attention. (Incidentally, the decree establishing the standard procedures for municipal councils does not require local standing committees to be diverse and multi-dimensional).¹⁹

The role of local authorities will need to be restored in this new context of recovery: they have been subject to insufficient oversight, which has led to numerous difficulties in local management. Many positions that are essential to the proper functioning of municipal authorities or local public services, such as director of the local council, director of local tax collection services, or architects and town planners in the departments that issue construction or demolition permits, remain vacant or occupied by insufficiently qualified civil servants.



The COVID-19 crisis confirmed this observation; the *communes* had to manage with few human and logistical resources. The recent decree on the functional mobility of public officials for the benefit of local authorities will, in particular, allow such officials to be redeployed to *communes* based on the latter's needs.²⁰ The recovery plan repeatedly cites this aspect as a fundamental element of the new post-COVID governance.

Financial and fiscal constraints

Financial and fiscal constraints are nothing new for municipalities: this is the competence they lack the most. The difficulties experienced by *communes* during the health crisis have confirmed this and reminded the central government of its responsibility to support local authorities financially and logistically. In fact, municipal services were responsible for the heavy burden of cleaning and sterilizing local streets and main traffic arteries, but also for ensuring compliance, first during confinement and now with health protocols. The central government made money available to some *communes* but not to others, on the pretext that the latter had large budgets, even though they were particularly affected by the crisis. Moreover, municipal sanitation services, including in large municipalities, were not equipped to deal with this particularly contagious virus. It was only belatedly that the Ministry of Local Affairs, in partnership with the Ministry of the Environment, discussed a plan for managing household waste from those who were infected.

More recently, the minister of local affairs has called on *communes* to review their current budgets and reformulate their priorities by reducing their expenditure so as to avoid, in line with Article 177 of the CCL, a budget deficit that would hinder the implementation of local development projects.²¹

The practical difficulties of local planning

It is particularly at the planning level that difficulties are encountered. Several questions need to be asked here:



First of all, how many municipalities prepared their local development plans before the COVID crisis? What support did they then receive from the Ministry of Local Affairs?

Furthermore, following the crisis, municipalities should revise their plans in progress, after testing them for effectiveness, and thus target the problems identified during the pandemic. Any municipalities still preparing their plans, should review their content and adapt it to the potential risks.

The same questions can be asked with regard to territorial planning. Indeed, long before COVID, municipalities either had to revise their old plans because their territorial scope had been extended, or prepare a new plan because they did not yet have one. This is the case of the recently created communes.

However, the recovery plans will pose several challenges:

First, the contradictions that already exist between the CCL and the Code de l'Aménagement du Territoire et de l'Urbanisme (CATU), which is out of step with the new principles of devolvement. This discrepancy is becoming even more pronounced with the consequences of the pandemic, which the 1994 legislation cannot absorb: municipalities will have to rethink urban planning according to the new sanitary and social constraints.

There are also technical and financial constraints, issues concerning farmland, and land tenure problems that could hinder local recovery after COVID-19. Here, the *communes* should deal with the central government, which is at least minimally involved in the preparation of these plans, with a view to harmonising the various territorial plans as required by the CCL.

Reviewing relations with the central government

The CCL sets out both municipalities' own competences and the competences that they share with the central government. The latter are particularly apt for projects for the post-COVID recovery. Article 243, for instance, refers to promoting the local economy, supporting employment, organizing urban transport, etc. These



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competences are fully in line with the activities listed in the government's economic recovery project.

However, these shared competences and the means to achieve them must be set out in detail by new legislation, including the logistical and human resources to be made available at each level.²² The same applies to devolved competences, such as running medical facilities, which requires the devolvement of both funds and staff. The Act refers to an agreement to be concluded with the central government to implement these projects.²³

However, no draft law applying these provisions is under discussion, and the day-to-day government has launched a national consultation on decentralization, including amendments to the CCL, even though the majority of its implementing texts have not yet been adopted!

Central government involvement in the post-COVID recovery is not only warranted but indispensable. However, its involvement should be more subtle than during its management of the health crisis, which was criticised for its notorious lack of coordination in both form and content.²⁴

Thus, circulars became the legal instrument most frequently used by the various ministries involved in managing the crisis. The numerous circulars published by the minister of local affairs attest to this. However, this choice poses more than a problem of form, since the legality of these acts, which change the rule of law, is questionable, even in exceptional circumstances. Indeed, respect for the law in times of crisis is an indicator that democracy has taken root.

The principles of the unity of the state,²⁵ freedom of administration, and subsidiarity are safeguards, even if they did not prevent conflicts between central and local authorities.²⁶

The mayor of Ariana,²⁷ for instance, passed a measure that recalled the need to respect national provisions while itself being more restrictive of civil liberties, arguing that the particular local context required it.²⁸ This decree was a reminder of the conflict over information held by the central government that was not communicated to the municipality concerned.²⁹



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Tunisia's post-COVID recovery project should therefore address this lack of governance. This is imperative since the plan announced by the outgoing government does not seem to give local authorities a clear role to play, nor establish any specific mechanisms to harmonize and synchronize the efforts of all to ensure the best possible local recovery from the crisis. Such measures and mechanisms are also crucial for good governance more broadly speaking, which must involve capacity-building for inclusive and sustainable social and economic development at the local level.



Endnotes

1. These are the first local elections held since the adoption of the Local Government Act (CCL) by organic law No. 2018-29 of 9 May 2018.
2. As of 20 July 2020, the Ministry of Health announced 232 cases and 1,099 recoveries from the disease. Its official website puts the number of deaths at 50.
3. Arts. 2, 3 and 4 of government decree no. 2020-156. Presidential decree no. 2020-24 of 18 March 2020 and presidential decree no. 2020-28 of 22 March 2020 declaring compulsory general confinement and setting out restrictions on movement and gathering in groups outside the curfew.
4. Such as the unemployed, households with limited income, those working in the informal economy, female victims of violence, emigrants.
5. During a television interview on 20 May 2020, the prime minister announced the main lines of an economic recovery plan following the COVID-19 crisis; the plan was then presented by Lobna Jribi on 13 July at a press conference.
6. The prime minister tendered his resignation to the president on 15 July 2020.
7. Art. 106 CCL.
8. Art. 119 CCL.
9. It is mainly the municipalities' so-called "own" competences (Arts. 235-241) that make them crucial here.
10. Law no. 2020-30 of 30 June 2020 on the social and solidarity economy. The aim of this new development model is to achieve social justice, restructure the informal economy, achieve economic well-being, and attain a quality of life including dignified living conditions, with a view to sustainable development (Art. 2).
11. The Act authorises the municipality to set certain charges, duties and taxes of an environmental nature.
12. By application of the "polluter pays" principle.
13. To promote renewable energies, sewage pipes, and other projects that promote gender equality, as per Article 138 CCL.
14. Art. 40 CCL.
15. The European Union and several UN agencies.
16. Circular No. 4 of 7 March 2014 cited the following examples of partnership projects between the public and private sectors: urban parks, waste management and recovery, and others. On the involvement of the private sector, see <https://www.arab-reform.net/publication/can-tunisia-shake-off-business-as-usual-following-COVID-19/>
17. Art. 107 CCL.
18. Loans from the Fund are granted on the basis of projects meeting its objective, which is to improve the living conditions of the municipality's inhabitants (Art. 39).
19. Government decree no. 2018-744 of 23 August 2018 approving the standard rules of procedure for municipal councils.
20. Government decree no. 2020-315 of 19 May 2020.
21. Circular of the minister of local affairs No. 13, dated 22 June 2020, on the revision of municipal budgets for 2020 so as to limit the financial impact resulting from the exceptional measures to combat the spread of COVID-19.



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22. Art. 13 CCL.
23. Art. 244 CCL.
24. The prime minister's circular to mayors dated 25 March 2020 usurped their constitutionally recognized powers by enjoining them to refer to the supervisory authority before taking any decisions relating to the COVID-19 crisis. The circular requires mayors to comply with the instructions of the "supervising authority" and requires the local authority to obtain "prior authorization" from the central authority before taking any decisions relating to the health crisis.
25. "Local authorities shall exercise their powers with due regard for national security provisions"; the need to comply with "legislative and regulatory provisions of national scope".
26. Similarly, in France, on 9 April 2020 the administrative judge for summary proceedings granted a stay of execution for the order by the mayor of Sceaux requiring its inhabitants to cover their noses and faces when in public. The judge considered that the mayor's order "is manifestly illegal since it restricts the freedom of movement of the inhabitants whilst not being justified by local circumstances, and since the mayor could ensure the safety of inhabitants by a measure that is less detrimental to their fundamental freedoms".
27. One of the *communes* of the capital Tunis.
28. Decree no. 1 of 30 March 2020 "on combating the spread of the COVID-19 virus". The more restrictive local measure must be justified by the particular circumstances in the *commune* due to the epidemic. The local regulation should therefore only intervene as needed, and be limited to what is strictly necessary. This is proportionality.
29. Art. 15 of the Act requires the Ministry of Health to inform local authorities of the names of persons subject to compulsory confinement or self-isolation.



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