

DECISION 2001-456 DC OF 27 DECEMBER 2001
Finance Act for 2002

(Extracts)

On 20 December 2001 the Constitutional Council received a referral from Mr Josselin de ROHAN, Mr Alain LAMBERT, Mr Philippe MARINI, Mr Pierre ANDRÉ, Mr Philippe ARNAUD, Mr Denis BADRÉ, Mr Michel BÉCOT, Mr Laurent BÉTEILLE, Mr Joël BILLARD, Mr Jacques BLANC, Mr Maurice BLIN, Mr Gérard BRAUN, Ms Paulette BRISEPIERRE, Mr Michel CALDAGUES, Mr Robert CALMEJANE, Mr Jean-Claude CARLE, Mr Auguste CAZALET, Mr Jean CHÉRIOUX, Mr Jean CLOUET, Mr Christian COINTAT, Mr Jean-Patrick COURTOIS, Mr Xavier DARCOS, Mr Robert del PICCHIA, Mr Marcel DENEUX, Mr Eric DOLIGÉ, Mr Jacques DOMINATI, Mr Paul DUBRULE, Mr Alain DUFAUT, Mr Ambroise DUPONT, Mr Jean-Léonce DUPONT, Mr Louis DUVERNOIS, Mr Jean FAURE, Mr André FERRAND, Mr Hilaire FLANDRE, Mr Serge FRANCHIS, Mr Philippe FRANÇOIS, Mr Yves FRÉVILLE, Ms Gisèle GAUTIER, Mr Patrice GÉLARD, Mr Alain GÉRARD, Mr François GERBAUD, Mr Francis GIRAUD, Ms Jacqueline GOURAULT, Mr Alain GOURNAC, Mr Louis GRILLOT, Mr Georges GRUILLOT, Mr Charles GUENÉ, Mr Michel GUERRY, Mr Hubert HAENEL, Ms Françoise HENNERON, Mr Daniel HOFFFEL, Mr Alain JOYANDET, Mr Jean-Marc JUILHARD, Mr Patrick LASSOURD, Mr Jean-René LECERF, Mr Jacques LEGENDRE, Mr Serge LEPELTIER, Mr Philippe LEROY, Ms Valérie LÉTARD, Mr Gérard LONGUET, Mr Roland du LUART, Mr Max MAREST, Mr Jean-Louis MASSON, Mr Serge MATHIEU, Mr Michel MERCIER, Mr Jean-Luc MIRAUX, Mr Louis MOINARD, Mr Bernard MURAT, Mr Philippe NACHBAR, Mr Philippe NOGRIX, Mr Joseph OSTERMANN, Mr Michel PELCHAT, Mr Jean PÉPIN, Mr Bernard PLASAIT, Mr Jean PUECH, Mr Jean-Pierre RAFFARIN, Mr Henri de RAINCOURT, Mr Charles REVET, Mr Philippe RICHERT, Ms Janine ROZIER, Mr Bernard SAUGEY, Mr Jean-Pierre SCHOSTECK, Mr Bruno SIDO, Mr Louis SOUVET, Mr René TRÉGOUËT, Mr François TRUCY, Mr Maurice ULRICH, Mr Jean-Pierre VIAL, Mr Xavier de VILLEPIN, Mr Serge VINÇON and Mr François ZOCCHETTO, Senators, and on 21 December 2001, from Mr Jean-Louis DEBRÉ, Mr Philippe DOUSTE-BLAZY, Mr Jean-François MATTEI, Mr Bernard ACCOYER, Ms Michèle ALLIOT-MARIE, Mr René ANDRÉ, Mr Philippe AUBERGER, Mr Pierre AUBRY, Mr Jean AUCLAIR, Ms Martine AURILLAC, Mr Léon BERTRAND, Mr Jean-Yves BESSELAT, Mr Jean BESSON, Mr Bruno BOURG-BROC, Mr Michel BOUVARD, Mr Philippe BRIAND, Mr Bernard BROCHAND, Mr Christian CABAL, Mr Gilles CARREZ, Ms Nicole CATALA, Mr Richard CAZENAVE, Mr Henri CHABERT, Mr Jean-Paul CHARIÉ, Mr Jean CHARROPPIN, Mr Philippe CHAULET, Mr Jean-Marc CHAVANNE, Mr Olivier de CHAZEAX, Mr François CORNUT-GENTILLE, Mr Alain COUSIN, Mr Charles COVA, Mr Henri CUQ, Mr Arthur DEHAINE, Mr Patrick DELNATTE, Mr Yves DENIAUD, Mr Patrick DEVEDJIAN, Mr Guy DRUT, Mr Jean-Michel DUBERNARD, Mr Jean-Pierre DUPONT, Mr Nicolas DUPONT-AIGNAN, Mr François FILLON, Mr Robert GALLEY, Mr Henri de GASTINES, Mr Hervé GAYMARD, Mr Michel GIRAUD, Mr Lucien GUICHON, Mr François GUILLAUME, Mr Gérard HAMEL, Mr Michel HUNAUT, Mr Christian JACOB, Mr Didier JULIA, Mr Jacques KOSSOWSKI, Mr Pierre LASBORDES, Mr Jean-Claude LEMOINE, Mr Alain MARLEIX, Mr Jean MARSAUDON, Mr Philippe MARTIN, Mr Patrice MARTIN-LALANDE, Mr Jacques MASDEU-ARUS, Ms Jacqueline MATHIEU-OBADIA, Mr Gilbert MEYER, Mr Jean-Claude MIGNON, Mr Pierre MORANGE, Mr Jean-Marc NUDANT, Ms Françoise de PANAFIEU, Mr Robert PANDRAUD, Mr Jacques PÉLISSARD, Mr Etienne PINTE, Mr Serge POIGNANT, Mr

Bernard PONS, Mr Robert POUJADE, Mr Didier QUENTIN, Mr Jean-Bernard RAIMOND, Mr Jean-Luc REITZER, Mr André SCHNEIDER, Mr Bernard SCHREINER, Mr Philippe SÉGUIN, Mr Frantz TAITTINGER, Mr Michel TERROT, Mr Jean-Claude THOMAS, Mr Georges TRON, Mr Jean UEBERSCHLAG, Mr Léon VACHET, Mr Jean VALLEIX, Mr François VANNON, Mr Roland VUILLAUME, Ms Marie-Jo ZIMMERMANN, Mr Pierre ALBERTINI, Mr Pierre-Christophe BAGUET, Mr Jacques BARROT, Mr Jean-Louis BERNARD, Mr Claude BIRRAUX, Mr Emile BLESSIG, Ms Marie-Thérèse BOISSEAU, Ms Christine BOUTIN, Mr Loïc BOUVARD, Mr Yves BUR, Mr Charles de COURSON, Mr Yves COUSSAIN, Mr Francis DELATTRE, Mr Léonce DEPPEZ, Mr Germain GENGENWIN, Mr Gérard GRIGNON, Mr Pierre HÉRIAUD, Mr Patrick HERR, Ms Anne-Marie IDRAC, Mr Jean-Jacques JÉGOU, Mr Edouard LANDRAIN, Mr Jacques Le NAY, Mr Maurice LIGOT, Mr François LOOS, Mr Christian MARTIN, Mr Pierre MEHAIGNERIE, Mr Pierre MENJUCQ, Mr Pierre MICAUX, Mr Hervé MORIN, Mr Dominique PAILLE, Mr Henri PLAGNOL, Mr Jean-Luc PRÉEL, Mr Marc REYMANN, Mr François ROCHEBLOINE, Mr Rudy SALLES, Ms Nicole AMELINE, Mr François d'AUBERT, Ms Sylvia BASSOT, Mr Dominique BUSSEREAU, Mr Pierre CARDO, Mr Antoine CARRÉ, Mr Pascal CLÉMENT, Mr Georges COLOMBIER, Mr Bernard DEFLESSELLES, Mr Laurent DOMINATI, Mr Dominique DORD, Mr Charles EHRMANN, Mr Nicolas FORISSIER, Mr Claude GATIGNOL, Mr Gilbert GANTIER, Mr Claude GOASGUEN, Mr François GOULARD, Mr Pierre HELLIER, Mr Michel HERBILLON, Mr Philippe HOUILLON, Mr Marc LAFFINEUR, Mr Pierre LEQUILLER, Mr Michel MEYLAN, Mr Yves NICOLIN, Mr Paul PATRIARCHE, Mr Bernard PERRUT, Ms Marcelle RAMONET, Mr José ROSSI, Mr Jean-Pierre SOISSON, Mr Guy TESSIER, Mr Gérard VOISIN, Mr Jean BARDET and Mr Jean VALLEIX, Deputies, pursuant to the second paragraph of Article 61 of the Constitution, for constitutional review of the finance Act for 2002 ;

THE CONSTITUTIONAL COUNCIL,

(...)

ON SECTION 134:

48. The first paragraph of Article 2 of the Constitution provides: “The language of the Republic shall be French”; the use of French is imposed on bodies corporate governed by public law and on natural persons exercising a public service function; individuals may not assert a right to use a language other than French or be required to use one in their relations with public authorities and services;

49. To safeguard regional languages, the State and territorial units may provide assistance to associations set up for that purpose, but under Article 2 of the Constitution the use of a language other than French may not be imposed on pupils in establishments of public education either in the life of the establishment or in the teaching of subjects other than the relevant language;

50. Section 134 of the Finance Act for 2002 authorises the appointment and establishment of teaching staff in first- and second-cycle private education establishments managed by the Diwan association where these establishments are integrated into the public education system under section L 442-4 of the Education Code; it also provides that on the date of the said integration, non-teaching staff can become contractual employees of the public service;

51. The characteristic of the establishments managed by the Diwan association according to the explanatory memorandum for this section is that they practice the total immersion approach to language teaching, which does not merely teach the regional language but

actually uses it as the language for general teaching purposes and also as the vehicular language for life within the establishment;

52. The purpose of section 134 is not and cannot be to decide on the principle of integrating such establishments into the public education system; it will be for the relevant administrative authorities to decide on applications for integration, subject to judicial review and in compliance with Article 2 of the Constitution and relevant legislative provisions; subject to this reservation, section 134 is not unconstitutional;

(...)

Has decided as follows:

Article 1

Sections 97, 98 and 99 as well as the two last paragraphs of section 154 (III) of the Finance Act for 2002 are declared unconstitutional.

Article 2

Sections 6, 24, 26, 33, 38, 62, 90, 51 (I), as well as, subject to the foregoing reservations of interpretation, sections 115 and 134 of the Act are declared constitutional.

Article 3

This decision shall be published in the *Journal officiel de la République française*.

Deliberated by the Constitutional Council at its sitting of 27 December 2001, attended by: Mr Yves GUÉNA, President, Mr Michel AMELLER, Mr Jean-Claude COLLIARD, Mr Olivier DUTHEILLET de LAMOTHE, Mr Pierre JOXE, Mr Pierre MAZEAUD, Ms Monique PELLETIER, Ms Dominique SCHNAPPER and Ms Simone VEIL.