

## MANAGING ACROSS LEVELS OF GOVERNMENT FRANCE

### 1. Institutions and authority

#### 1.1 Structures

##### *Description of levels*

It is essential in France to distinguish between sub-national governments (*collectivités territoriales*) and administrative districts (*circonscriptions administratives*).

**Sub-national governments** are public law legal persons whose autonomy -- guaranteed by the principle of administrative freedom for local authorities, which is enshrined in the Constitution -- is reflected above all by the fact that they have been administered, either entirely (since the Acts on Decentralisation of 1982 and subsequent years) or in part (prior to 1982 in the case of *départements*), by assemblies elected by their respective constituencies.

In France, since 1982-86, there have been four levels of administration (if the term "level" is reserved for authorities enjoying the autonomy guaranteed by the Constitution under the concept of administrative freedom). Since, from a legal standpoint, there is no hierarchy among sub-national governments, which are all subordinate to the State in the same manner yet independent from each other, "level" must be construed in a geographical sense. The State, which is unitary, covers the entire republic. The total area of France is 1 165 651 square metres and the total population in 1990 was 58 453 000. [These 1990 data include the DOM/TOM (*Départements et Territoires d'Outre-mer*) and regions with a special status; for metropolitan France exclusively, its area is 549 000 square metres and the population in 1994 was 57 960 000.]

Since the French Revolution, the municipality (*la commune*) has been the base-level local authority; at that time, most municipalities corresponded simply to Catholic church parishes. Theoretically, the same regulations apply to all 36 772 municipalities (as at 1/1/1995), regardless of population, although there are exceptions for those located in DOMs and TOMs/CTs, as well as for the two Alsatian *départements* and that of Moselle, which have kept some principles of the law that prevailed prior to, or during, their incorporation into the German empire, from 1870 to 1918 ("Alsace-Lorraine"). While there is absolutely no legal distinction between rural municipalities and urban ones, population differences can alter the make-up of institutions or, more rarely, affect the ability to wield certain powers (e.g. town planning functions). The city of Paris is both a municipality and a *département*, its institutions (the Council of Paris and the mayor) being those of a municipality. The cities of Paris, Lyon and Marseilles, while each constituting a municipality, are further divided into *arrondissements*, which since 1982 have had their own mayors and councils, but whose powers are essentially advisory.

The 100 *départements*, which are intermediate local authorities, were created at the time of the Revolution, in 1789, on a geographical basis, as provinces, cities and other intermediate entities were

being abolished. The same regulations theoretically apply to all *départements* (with the same sorts of exceptions as for municipalities). The overseas territories (TOM), as well as the two territorial communities (CT) (Mayotte, and Saint Pierre and Miquelon), fall under a different system, in some cases conferring sweeping internal autonomy.

All 26 regions have the same legal system, although institutions and powers can differ significantly for both Corsica (which, moreover, in 1992 ceased to be called a “region”) and overseas regions (Guadeloupe, Guiana, Martinique and Réunion), each of which consists of a single *département* with the same geographical entity possessing both departmental and regional institutions -- which is not without its problems as regards the division of responsibility.

The borders of the State’s **administrative districts** usually coincide with those of sub-national governments, as in the case of regions and *départements*, as well as municipalities for certain powers (e.g. registry of births, marriages, deaths; elections). Other districts do not correspond to sub-national governments, as is generally the case with *arrondissements* (the domains of sub-prefects) and such special-purpose divisions as *academic districts* (“*académies*” -- the geographical entities of the Ministry of Education, which are under the authority of Government-appointed rector) and Court of Appeal jurisdictions. These administrative districts have neither legal personality nor autonomy -- they are run by State officials hierarchically subordinate to ministers and the Prime Minister.

**Table 1. Area and population of sub-national governments (1990) <sup>(1)</sup>**

	Regions	<i>Départements</i>	Municipalities
Number	26	100	36 862 <sup>(2)</sup>
Area (km <sup>2</sup> )			
Largest	45 348	10 000	14.89 <sup>(3)</sup>
Smallest	1 100	176	
Population			
Largest	10 660 000	2 532 000	2 188 918
Smallest	114 678	78 800	0
Number of municipalities and population distribution <sup>(4)</sup>			
	Population size	Number of municipalities	
	0 - 1 000	28 183	
	1 000 - 4 999	6 629	
	5 000 - 9 999	898	
	10 000 - 49 999	738	
	50 000 - 99 999	67	
	100 000 and over	36	

1. Figures include overseas *départements* (DOM), overseas territories (TOM) and special status.

2. There were 36 772 municipalities as at 1 January 1995.

3. Average.

4. Metropolitan France.

Source: *Structure and Operation of Local and Regional Democracy: France*, Council of Europe, 1993.

As of 1 January 1995, there were 36 772 municipalities in France, of which 36 559 were located in Europe, and 213 in overseas *départements* (DOMs), overseas territories and special “territorial communities” (TOMs/CTs). There have been 96 French *départements* in Europe since 1975 (83 at the

time of the Revolution, 90 from 1919-68 and 95 from 1968-75) and four overseas *départements* (DOM) since 1946. In all there are 26 regions, of which 22 are in Europe.

The size of French municipalities varies in population from zero (a number of municipalities, in mountainous areas in particular, have lost all their year-round inhabitants) to 2 175 200 (Paris). This territory of a *département* can cover only a single municipality (Paris) up to several hundred, the average being 383 and the maximum 895 (in Pas-de-Calais). Regions vary in size from two *départements* (Corsica, Alsace) to eight (Rhône-Alpes).

#### *Central government at sub-national levels*

The State representatives in each of its administrative districts are national career civil servants, appointed and removed at the Government's pleasure to serve in regions (26 regional prefects) and *départements* (100 prefects). A regional prefect is also the prefect of the *département* in which the seat of regional government is located. In municipalities, the State is represented by the elected mayor, who holds administrative policing powers (to maintain order) in the municipality and is also the civil registry and criminal investigation officer. All relations between local authorities and the State are channelled through the prefects, who also have power to review the administrative acts of local government institutions. Until 1982, a prefect's administrative control over the actions of mayors and the elected assemblies of sub-national governments was of the conventional supervisory type still to be found in other Western European countries: in some cases, local decisions required the prefect's prior approval, in others, he could reverse them, and, in a limited number of cases, he could replace local authorities and exercise their powers himself. This control always covered the legality of local decisions and, very frequently, their advisability (especially from a financial or fiscal perspective) as well. Since 1982 (and excepting a few highly specific areas such as the police powers of mayors), prefects have been left with only one means of exercising the State's administrative control over local authorities (provided for by the Constitution), i.e. by referring matters to the independent judicial bodies that are empowered to annul or alter disputed decisions, namely the administrative courts and the new regional courts of audit.

#### *Creation, elimination and restructuring*

The Constitution of the Fifth Republic (Article 72) refers to *départements* and municipalities, and gives Parliament power to create other sub-national governments. It would therefore require a constitutional amendment to eliminate municipalities and *départements* as categories, and none is envisaged. The creation of new *départements* (or the merger of several into one, which has never taken place) is possible only through an Act of Parliament. The same holds true for the creation of new municipalities. The merger of municipalities has been possible since 1971, subject to the approval of a majority of the inhabitants and the municipal councils involved (there were just over 800 mergers between 1971 and 1992). It is far easier to create or abolish regions, or to alter their boundaries, not only because their existence is not protected by the Constitution, but also because they are much less deeply rooted in French society. Regions have taken hold as a political reality, however, and their boundaries would seem unlikely to change. Two or more regions can be merged by decree of the Council of State (*Conseil d'État*) with the assent of the respective regional councils and approval by a qualified majority of the general councils.

A number of restructurings have taken place, the main recent development being the establishment of the region. Regions have been sub-national governments only since 1982 (Corsica), 1983 (overseas regions) or 1986 (regions in continental Europe).

Local authorities may join together in public entities created to undertake projects of common interest. Such entities can bring together local authorities of the same level (for example, consortia of municipalities, inter-departmental bodies, and inter-regional institutions) or local authorities of different levels (mixed consortia). All these entities are public organisations, invested with legal status and financial independence. Their acts are subject to control by the prefects.

Most of these entities are freely created by the authorities coming together, and decide their own field of responsibilities -- which may be single or multi-purpose. Conurbations, however, are an exception. They are created by an Act and a law lays down a set of compulsory activities. In practice, however, conurbations were instituted as a result of a voluntary procedure. Associations of municipalities and of towns (*communautés de communes et de villes*) are created by agreement of their constituent localities. Conurbations and associations of municipalities and of towns are alike in that their powers are defined by law, although of course there are variations.

### *Control bodies*

**Administrative courts** may review acts of the State (other than legislation) and of sub-national governments, at the instigation of private citizens as well as the State (the prefect in the case of local decisions) and incorporated public bodies (any sub-national government or public organisation can therefore contest the acts of the State or of other sub-national governments or public organisations). The administrative courts therefore play a vital role in upholding each authority's autonomy and ensuring consistency of public policies by annulling decisions or regulations that are contrary to legislation or to the general principles of law. Rulings by the Council of State, the highest administrative court are therefore particularly important in setting the basic ground rules.

**Regional courts of audit** play an essential role in budgetary and financial matters. If a prefect detects irregularities, and particularly if an unbalanced budget has been adopted, he may refer the matter to the regional court of audit, which is empowered, if necessary, to take certain decisions in the place of local authorities.

Although administrative courts and regional courts of audit are separate from the ordinary courts [their members are recruited through the National School for Administration (ENA) rather than the National School for Judges and Prosecutors (*École Nationale de la Magistrature*) and the court of last instance is the Council of State rather than the Court of Appeal (*Cour de Cassation*)], they are entirely independent.

## **1.2 Powers**

### *Nature of sub-national institutions*

Each sub-national government has a representative assembly elected through direct universal suffrage for a fixed term: for municipalities, it is the municipal council; for *départements*, the general council; and for regions, the regional council. Each of these three types of assemblies has its own electoral system, with an added distinction in the case of municipal councils, between municipalities having a population of more or fewer than 3 500. Elections for a given category of authorities are generally held on the same date throughout the Republic. The number of members of these representative assemblies is set by law and varies according to the population of the entity involved. In the event a representative assembly is unable to function, the Government may dissolve it, in which case new elections are held to choose another one, which simply serves out the unexpired term of the body that has

just been dissolved. Such dissolutions are extremely rare: between 1977 and 1993, 137 municipal councils were dissolved, 106 of which in municipalities having a population of under 1 500. The regional council of Corsica was also dissolved in 1983.

Some exceptions to this uniformity deserve mentioning. Corsica, for example, does not have the same common law regional institutions as there is an “Assembly of Corsica”. The regions’ two departments, Upper Corsica and Southern Corsica, on the other hand, have the same institutions as any other *département*. Overseas territories and territorial communities have neither general councils nor regional councils. French Polynesia has an Assembly; and New Caledonia is divided into three provinces having elected assemblies which together constitute the territorial assembly of New Caledonia.

Prior to 1982, the chief executive of each *département* and region was the prefect, a Government-appointed national career civil servant who was also responsible for representing the Government in the respective *départements* and regions. Accordingly, prefects exercised administrative control over the legality of acts of municipal, general and regional councils, as well as over those of mayors. This meant that regions had no administrative services of their own, and those of the *départements* were scant, with prefects using national administrative services to perform most of their functions. Today, each authority also has a chief executive, elected by the representative assembly from among its members and serving the same term of office: municipalities are headed by a mayor, *départements* and regions by the chairmen of the general and regional councils respectively. It is a system similar to that of the national President: the executive authority cannot be voted out of office in mid-term, and power is concentrated in the hands of a single person, who is assisted by other officers or by deputies, who do not, however, share his responsibility. Should it become impossible for local institutions to function, the Government may suspend or revoke the chief executive, but such cases are extremely rare: between 1977 and 1993 only seven mayors were removed in this way.

In Corsica, an authority which constitutes an exception to the norm, the “Assembly of Corsica” elects a collegiate executive which is answerable to the Assembly during its term of office. The government of French Polynesia is similarly answerable to the Assembly during its term of office. The executive in New Caledonia is the High Commissioner, a national career civil servant appointed by the Government.

#### *Type and degree of autonomy*

The Constitution of the Fifth Republic (Articles 34 and 72) reiterates the principle of administrative freedom for sub-national governments, developed by the rulings of the Constitutional Council. What that principle basically means is that each such authority must have a representative assembly elected through direct universal suffrage, and its own powers which, while obviously subject to the law, are exercisable without interference from the State. Since France is a unitary State, sub-national governments have no general regulatory power, let alone any legislative power. Parliament alone may pass laws, whether they be applicable throughout the Republic or in a limited geographical area only. It is the Prime Minister who wields regulatory power, which enables the Government to clarify the detailed provisions of the law or regulate such matters as are not constitutionally reserved to the legislature. Regulations (called decrees or ministerial orders) applicable throughout the country are adopted by the Government; regional and departmental prefects, as well as mayors, may also adopt regulations (known as prefectural or municipal orders) applicable solely in their respective districts. The sole exception to these principles is the territorial assembly of French Polynesia, which has regulatory powers over its own territory, but still subject to decisions of the national Parliament.

Only Parliament has the authority to establish a tax and fix its rate (see also section 2.2).

The organisational powers of sub-national governments are limited to running their own administrative services. Only the State has the responsibility of defining its own responsibilities and may organise itself and freely determine how its public powers are apportioned. Under the Constitution, all rules as to how institutions are organised (the composition and workings of representative assemblies and their executives) are a matter for Parliament.

**Table 2. Institutions of sub-national authorities**

	Region	<i>Département</i>	Municipality
Assembly	regional council	general council	municipal council
Term of office	6 years	6 years (half of the council being up for renewal every 3 years)	6 years
Electoral system	proportional representation, departmental lists, minimum: 5% of the total vote	two-round vote for a single rep. = "cantonal elections"	two-round vote from list if pop. <3 500; adjusted proportional representation if >3 500
Number of members	minimum: 31 maximum: 209	minimum: 13 maximum: 76 <i>Paris: 163</i>	minimum: 9 maximum: 69 <i>Paris: 163, Lyons: 73 Marseilles: 101</i>
Chief executive	Chairman of the regional council	Chairman of the general council	Mayor
Term of office	6 years	3 years	6 years
Representative of the State	regional prefect	prefect	mayor

### 1.3 Responsibilities

Although the Act of 7 January 1983 affirms the principle of specific responsibilities for each category of local authority, the issue is made fairly complex by the fact that the current competencies derive not only from pre-1983 devolution by the State and subsequent changes in the division of responsibilities, but also from a responsibility for "local affairs" -- a concept developed by the courts -- for each level of authority. Theoretically, the division of responsibilities is straightforward, but in practice many responsibilities are found on more than one level (concerning different aspects). The theoretical principle underlying the 1983 Act is that "clusters of responsibility" are assigned to each level of sub-national government.

This principle has, however, its limitations:

- It is particularly difficult to determine such clusters when the responsibilities involved are related.
- The State has not wished to transfer certain responsibilities that in France are traditionally considered as belonging to the national level though they involve local responsibilities (by

virtue of the republican principle of equality, teachers, school curricula and where schools are located have remained matters for the State, whereas the construction and maintenance, as well as the operation, of school facilities have been transferred to sub-national government under the principle of decentralisation.

- Sub-national government each have general jurisdiction over matters of local concern; accordingly, in any one area (e.g. a municipality), responsibilities attributed to a particular type of administrative unit are exercised at the same time as the general responsibilities invested in higher authorities (*départements* or regions).

But, aside from the fact that Parliament has not totally respected the logic of clusters of responsibilities, the concept of a cluster may encompass only a portion of overall authority. In education, for example, the cluster for local authorities relates to school buildings, whereas for the State, it relates to all aspects of education.

#### *Distribution of responsibilities*

The responsibilities of **municipalities** involve matters of relevance to the immediate vicinity, such as town planning, municipal infrastructure and subsidised housing, local public services (lighting, water, household waste treatment, public transport), health and social services (e.g. optional creation and maintenance of hospitals, aid to the elderly), education (primary school construction and maintenance), cultural affairs (museums, theatres), policing (security, public order, hygiene) and aid to employment and to businesses (particularly indirect assistance such as zoning provisions), subject to compliance with the principle of the freedom of trade and industry and with European Community law. The material extent of most of these responsibilities is significantly greater in medium- and large-sized urban municipalities than in rural areas.

The responsibilities of *départements* essentially involve the management of everyday affairs (excluding their responsibilities for departmental roads): welfare benefits, health care benefits (child and maternity care, preventive public health efforts), placement assistance for the unemployed, education [creation and maintenance of *collèges* (which provide the first four years of secondary education), school bussing] and local transport.

The responsibilities of **regions** focus chiefly on land-use planning and economic development: vocational training, education [creation, maintenance and operation of *lycées* (which provide the last three years of secondary education)], rail and waterway transport, and economic support measures. In the latter area, it must be stressed that regions alone may take the initiative of making direct grants to businesses (in which case *départements* and municipalities may make supplementary direct grants) -- subject, here again, to competition law.

#### *Mandatory, optional and shared responsibilities*

The State has some parallel responsibilities to those of local authorities, and in all sectors the State may have varying degrees of responsibility, as illustrated by the following examples:

- In education, the State determines primary and secondary school curricula, certifies higher education degrees, administers personnel at all levels and makes overall plans for the location of educational establishments. Municipalities build and maintain primary school premises and school cafeterias and pay for non-teaching operating costs; *départements* do the same for

*collèges* and regions for *lycées*; the State builds and maintains university premises and student housing, although it is possible for regions to add their financial assistance for universities to that of the State.

- Responsibility for policing is vested in municipalities as well as the State. Prefects may step in for mayors who fail to take the measures necessary to ensure safety, health and hygiene; criminal investigations are conducted by State officials, but mayors also perform some of the same functions (in particular by recording offences); police officers (who are under orders to the prefect as regards administrative matters, and to the State prosecutor for criminal investigations) are State civil servants in municipalities of over 10 000 inhabitants, whereas rural municipalities are policed by (military) *gendarmes*. Nevertheless, in order to exercise their responsibility for administrative policing, mayors may also, within certain limits, constitute police forces having lesser powers than the national police.

In the social sphere, the guaranteed minimum income policy, which was instituted in 1988, is a much more highly developed example of joint administration: the State finances allowances to the indigent, while *départements* must fund and develop measures to find them jobs. Prefects and general council chairmen jointly administer this policy, in which municipalities and social security bodies also play a role. It is therefore not possible, to summarise simply, clearly and precisely how responsibilities are divided among local authorities at the various levels of the State in France.

## 2. Management functions

### 2.1 Policy-making and co-ordination

#### *Coherence, consultation and conflict resolution*

The State alone has general regulatory powers. The framework for local public policy-making is therefore determined by the State, and freedom of choice within that framework varies extensively from one domain to another. A number of services are incumbent upon local authorities, with respect not only to security, health and hygiene, but also to matters such as social affairs, education and school bussing. Local politicians often complain, moreover, that the State's financial contribution is not enough to enable local authorities to administer these services. In the case of non-mandatory services, the latitude of local authorities, not only to pick and choose but also to manage, is much greater. The State intervenes in these areas by offering incentives, which may take the form of contractual planning (as is particularly the case with State/region plan contracts, which are concluded for five-year periods).

Thus, the institutions of sub-national governments have only non-regulatory powers, i.e. to make investment and administrative decisions as authorised by legislation giving them responsibilities in specific fields. Whenever a mayor exercises a regulatory power within his municipality, he acts not in his capacity of municipal chief executive elected by the municipal council, but as the State's representative in the municipality. (It is also in that capacity that he registers births, marriages and deaths and organises elections).

French law lays down the principle of equality between sub-national governments. This implies, in particular, that there is no hierarchy of municipalities, *départements* and regions. Accordingly, regions, unlike the State, have no formal means of imposing choices or co-operation on *départements* or municipalities within their boundaries, nor do *départements* on municipalities. However, this principle is being relaxed somewhat in the system of direct aid to businesses: municipalities and *départements* can

only make such grants to supplement regional assistance, but regions can impose certain choices on municipalities or *départements* by excluding particular firms or areas from their systems of direct aid.

A number of laws require that State services consult with local authorities in formulating public policies. However, there is no general consultation requirement -- if one excludes the case of overseas *départements*/regions, which the Government must consult if it proposes not to apply a national regulation or legislation to those territories. In contrast, the principle of equality among sub-national governments means that there are fewer requirements for consultation between different levels.

#### *Formal and informal mechanisms*

French law provides for a range of co-operative systems, for municipalities in particular, given that there are so many small ones with scant resources. A distinction can be made between:

- groupings of municipalities for general purposes, exercising a range of powers via a single body: intermunicipal alliances or conferences, multi-purpose municipal boards, districts, conurbations, and associations of municipalities and of towns (see section 1.1);
- specialised groupings: new towns, joint committees, and intermunicipal charters for development and land-use planning (which may be considered more as spatial planning documents than as groupings in the strict sense of the word).

In each *département*, an intermunicipal co-operation committee makes evaluations and formulates proposals on a strictly advisory basis. Its membership breaks down to at least 60 per cent mayors, 20 per cent representatives of public intermunicipal co-operation boards and 15 per cent general council representatives.

Formal co-operation also takes place between sub-national governments at other levels:

- interdepartmental alliances, interdepartmental conferences and interdepartmental institutions;
- inter-regional conferences, joint utility bodies and inter-regional agreements and alliances.

In addition, there are groupings that link local authorities of different levels: joint boards, inter-urban groups, departmental agencies and local-purpose public interest groups.

Prefects, and particularly regional ones, play an essential role in policy co-ordination by exercising a number of powers:

- they co-ordinate the deconcentrated services of the State in their respective *départements* or regions;
- they have resources, especially funding, at their disposal for local development -- in this respect, economic and financial directorates in prefectures play a particularly important role;
- they represent the State vis-à-vis sub-national governments and handle most contacts between local authorities and the national government;
- their power to control, noted above, contributes to ensuring better co-ordination.

A number of changes have recently taken place: the elimination of supervisory authorities (*tutelles*) radically changed the State's formal means of co-ordination and considerably increased local autonomy. This is considered one of the main features of decentralisation in France.

In France, two informal co-ordination mechanisms have long operated in relations between the State and local authorities, as well as those among local authorities themselves. Prefects have always kept in close contact with local authorities, at times even speaking on their behalf to central ministries or the Government. Moreover, by holding a number of different offices, local elected officials were essential in co-ordination. Classic examples were mayors who were also members of Parliament, or senators as well as members of their departmental general councils (and regional councils, from 1972). As such, they sat in the decision-making bodies of the State (Parliament), *départements* and regions, for the greater good of their municipalities. This multiple office-holding was far from having advantages only and was therefore considerably curtailed: since 1985, a member of Parliament (National Assembly or Senate) may concurrently hold only one other important office (European MP, regional councillor, general councillor, Paris councillor, mayor of a municipality of 20 000 inhabitants or more, or deputy mayor of a municipality of over 100 000 inhabitants). Most regional and general councillors hold another local office (general or municipal councillor).

A new, informal co-ordination mechanism is gradually taking shape through co-operation between the administrators of various authorities and those of the State, although it has yet to be studied in detail. An example of this is how the use of European Union structural funds has led to the establishment of "follow-up committees" representing the relevant prefectures and general and regional councils.

Although there are associations of local elected officials, including the Association of French Mayors, there are no national associations of local authorities, unlike in a number of other European countries.

## 2.2 *Financial management*

### *Sources of revenue*

Each sub-national government has a number of different revenue sources:

- Local taxes, collected by the State on behalf of municipalities, *départements*, regions and groups of local authorities (land tax on developed and undeveloped property, residence tax, trade tax); on behalf of municipalities or groups of municipalities (garbage collection and street cleaning charges); and on behalf of *départements* (annual motor vehicle tax, registration fees and fees for land and property advertising) and regions (motor vehicle registration fees).
- State subsidies (block operating grant, capital investment and decentralisation grants).
- Subsidies from other authorities (subsidies from regions to *départements* and municipalities, from *départements* to municipalities and from municipalities to *départements*; subsidies from the European Union to areas eligible for European structural fund grants).

- Borrowing (which accounts for between 10 and 15 per cent of local revenue).
- Payment for services rendered and sales of certain publicly-owned resources (e.g. timber from municipal forests). This type of revenue is important for municipalities, where it exceeds the proceeds from borrowing.

In 1993, aggregate tax revenue accounted for about half the income of regions, *départements* and municipalities, whereas total transfers covered just under a third of the budgets of sub-national governments (see Table 3).

**Table 3. Main revenue sources of sub-national governments (1985, 1990, 1993)**

(millions of French francs)

	Regions			<i>Départements</i>			Municipalities		
	1985	1990	1993	1985	1990	1993	1985	1990	1993
Tax receipts	11 068	25 799	31 374	58 951	93 106	106 765	103 385	147 713	179 112
<i>of which:</i>									
proceeds 4 taxes	4 750	12 248	17 443	38 766	52 391	69 278	87 228	113 765	138 287
Transfers received	3 781	13 505	18 537	49 153	60 904	65 680	87 841	116 987	133 657
<i>of which:</i>									
DGF <sup>(1)</sup>	(2)	(2)	(2)	9 965	13 307	14 846	53 899	69 533	76 975
Borrowings	2 647	4 967	10 327	10 197	10 444	27 444	29 459	40 440	43 686
Miscellaneous	701	3 338	2 851	4 085	7 857	8 438	32 082	50 930	58 423
<b>TOTAL</b>	<b>18 197</b>	<b>47 609</b>	<b>63 089</b>	<b>122 386</b>	<b>172 380</b>	<b>208 327</b>	<b>252 767</b>	<b>356 070</b>	<b>414 878</b>

1. Block operating grants (*dotations globales de fonctionnement*).

2. Not applicable to regions.

Source : Direction de la comptabilité publique, in : *Les Collectivités locales en chiffres, Édition 1995*, Direction générale des collectivités locales.

#### *Expenditure responsibilities*

In 1993, two-thirds of regional expenditure was earmarked for capital investment, whereas *départements* and municipalities had to bear proportionally higher operating expenses, which accounted for over half of their expenditure. For municipalities, these operating expenses consist primarily of substantial personnel costs, whereas *départements* make a large volume of transfer payments. Most investment expenditure is for capital equipment at the three sub-national levels, although the burden of repayment falls rather heavily on municipalities and *départements* (see Table 4).

Expenditure trends at the three levels of administration over the past ten years show that regional spending has been growing proportionally faster than that of *départements* or municipalities; in fact, regional expenses have more than tripled, whereas those of *départements* and municipalities barely doubled. This pattern probably stems from the fact that regions are a recent creation. It should be noted, however, that the regions still account for a small share of aggregate sub-national expenditure (less than 10 per cent in 1993).

**Table 4. Main expenditure patterns of sub-national governments (1985, 1990, 1993)**

(millions of French francs)

	Regions			<i>Départements</i>			Municipalities		
	1985	1990	1993	1985	1990	1993	1985	1990	1993
Operations	7 061	16 209	22 378	88 099	110 883	130 878	168 490	227 339	273 330
<i>of which:</i>									
personnel expenses	417	889	1 375	11 982	14 306	18 681	71 241	95 883	116 180
interest	1 278	1 946	3 675	6 786	7 642	9 709	20 359	27 185	30 888
transfers	4 891	11 802	14 965	58 450	74 264	87 648	36 892	50 302	59 853
Capital investment	11 179	31 467	40 070	31 641	63 264	77 044	80 926	127 333	140 565
<i>of which:</i>									
debt repayment	511	2 092	4 493	5 390	11 456	16 335	13 637	26 849	32 009
gross investment <sup>(1)</sup>	781	9 911	10 724	16 216	30 523	34 389	59 449	88 622	92 044
subsidies	8 338	14 123	18 431	(2)	(2)	(2)	(2)	(2)	(2)
<b>TOTAL</b>	<b>18 240</b>	<b>47 676</b>	<b>62 448</b>	<b>119 740</b>	<b>174 147</b>	<b>207 922</b>	<b>249 516</b>	<b>354 672</b>	<b>413 895</b>

1. For regions only: "reintegrated capital expenditure", funded by advances set aside in previous years, should be added to each year's gross investment figure. This expenditure totalled FF 1.4 billion in 1990 and FF 3.9 billion in 1993.

2. Non-existent for *départements* and municipalities.

Source : Direction de la comptabilité publique, in : *Les Collectivités locales en chiffres, Édition 1995*, Direction générale des collectivités locales.

#### *Balance between discretion and control*

Limits to local autonomy with respect to the expenditures of sub-national governments are primarily through budgetary and financial control (see 1.2). There is *ex-post* control by the administrative courts and regional courts of audit (upon referral by the prefect) -- to which may be added the accountancy rules which govern expenditures.

Concerning revenues, there are two fundamental limitations on revenue autonomy (apart from the population's financial capacity and the area's taxable activity):

- the principle that budgets must be balanced;
- the requirement that public authorities have their cash managed by the public Treasury (part of the State administration) which, in principle, denies them a share in any interest earned thereon.

The degree of autonomy in spending depends solely on whether services are mandatory or not (see above). On the whole, local authorities enjoy broad autonomy in this area. This is less true for small

municipalities, because of their meagre financial base and the relative share of mandatory expenditure in their budgets.

On the revenue side, a whole series of factors combine to give French local authorities considerable autonomy : while Parliament alone is empowered to establish a tax and determine its base, municipal, general and regional councils have some latitude in setting tax rates. This is reflected in the substantial disparities in local taxation from one locality to another.

Since 1979, the State has gradually replaced specific grants by block grants, which are felt to be more conducive to local autonomy.

Since 1990 local authorities have been free to borrow wherever they please (including abroad and in foreign currency) except for foreign currency bond issues which require ministerial approval.

The shift towards greater financial autonomy for sub-national governments predated decentralisation legislation, since State grants were first made in block form in 1979. Since then, the tendency has gradually gathered speed with the transfer to regions and *départements* of certain State taxes and the replacement of the former monopoly on lending to sub-national governments by freedom to tap the market.

### **2.3 *Performance management***

Management control takes the form principally of a formal control of legality as noted in section 1.1.

### **2.4 *Human resource management***

*Statutory distinctions:* Administrative law distinguishes between private employees, who are subject to the Labour Code and to applicable collective agreements, and public officials, who are subject to the principles of public law. The courts have held that a public official is anyone who takes part in “the actual execution of public service” -- a definition that covers most of the staff of sub-national governments. But that does not make every public official a civil servant, since administrative law also draws a distinction between civil servants (established officials holding permanent posts in an administration) and contract staff. The latter are subject to public law but do not have much of the protection accorded to civil servants, including guaranteed employment, and can be recruited much more freely.

Since 1984, special conditions of service have applied to the sub-national civil service, modelled on those for State civil servants which date from 1946. Sub-national civil servants have the same rights and responsibilities as their State counterparts. These include guaranteed employment (except in the event of serious misconduct or manifest unfitness for a job), a career system, a disciplinary system, and a duty to be impartial. Under the Constitution, most of these service conditions are contained in an Act of Parliament.

The Act of 26 January 1984 laying down general service conditions for sub-national civil servants has been amended several times, giving those concerned greater protection and making it easier for sub-national governments to meet their recruiting needs.

The jobs of each authority or establishment are created by the deliberative body of the sub-national government concerned. Individual decisions regarding the recruitment or careers of sub-national officials are taken by the sub-national government, in accordance with statutory provisions at the national level. Personnel management arrangements which are shared by several sub-national governments have been established. These include career management units (*Centres de gestion* -- CDGs) and interdepartmental delegations of the National Centre for the Sub-national Civil Service (*Centre national de la fonction publique territoriale*, CNFPT). The latter is a public organisation with a board of directors made up equally of representatives of the sub-national governments and representatives of sub-national civil servant trade unions, and whose primary role is to organise training and certain “category A” and “category B” competitive examinations. Responsibilities for organising the examinations are shared between the sub-national governments, the CDG and the CNFPT.

Recruitment by sub-national governments of non-established staff is provided for under the Act of 26 January 1984 in specific instances and for limited periods of time, in particular to replace established staff who are absent or to fill posts involving duties that no civil servants would be able to perform.

Civil servants (established staff) are theoretically selected by competitive examination, on an equal opportunity basis and scored by an independent panel. Successful candidates are admitted to an employment pool (equivalent to the national civil service “corps”), governed by special rules. However, in contrast to the State civil service, local authorities are not bound by the ranking order established by the examination panel. A candidate who has passed the examination and been put on the waiting list for the sub-national, as opposed to the State, civil service may therefore not be recruited immediately.

Contract staff are not recruited with a view to making a career in the civil service. The careers of established civil servants are governed by the special rules applicable to each employment pool. Promotions within a given pool, i.e. changes in grade and thus in remuneration, combine seniority (there are rules setting the minimum length of service for a change in grade) with selection (among officials with the requisite length of service). This is handled by career management units, if the sub-national governments are affiliated to one, otherwise by the authorities themselves. In contrast, employing authorities are free to transfer staff, as long as they fill vacancies with officials from the relevant pool and of the appropriate grade. If a civil servant is relieved of his duties or his post is eliminated, he is protected by the Act of 26 January 1984, under which, *inter alia*, he is paid by the regional delegation of the CNFPT or the management body, depending on his category, until he finds a new job.

The remuneration of sub-national officials is based on a number of factors. Basic salaries are determined first by grade, then by job, which makes it possible to set pay with reference to civil service salary scales. Most officials get bonuses, which may not exceed the ones paid to State civil servants performing equivalent duties and which can vary from one authority to another and, where applicable, reflect an official's particular responsibilities and in some cases his productivity. Very little is known about the exact amount of these bonuses, as is the case with the State civil service. The combination of salary and bonuses, while (generally) not as high as for corresponding private sector jobs, provides enough total remuneration to ensure that the sub-national civil service has no problem finding the staff it needs.

The principle of parity between the levels of civil service implies that sub-national officials may not enjoy a higher level of benefits than their counterparts in the State civil service.

**Table 5. Employment by type of administration (1983, 1989, 1994)**

	1983	1989	1994
State civil service <sup>(1)</sup>	2 813 800	2 844 800	2 208 000
Sub-national civil service	1 103 000	1 211 100	1 350 000
Public hospital service <sup>(2)</sup>	750 300	800 800	828 000
<b>TOTAL</b>	<b>4 667 100</b>	<b>4 856 700</b>	<b>4 386 000</b>

1. Excluding *La Poste* (postal service) and France Telecom in 1994 (new status).

2. Estimated figure for 1994.

Source : INSEE (for the State, data supplied by the *Ministère de la Fonction publique*), in : *Les Collectivités locales en chiffres, Édition 1995*, Direction générale des collectivités locales.

**Table 6. Personnel in local administrations (1985, 1991, 1993)**

	(31 December)		
	1985	1991	1993
Regions	2 900	5 900	6 700
<i>Départements</i>	155 000	154 300	157 200
Municipalities	862 800	935 600	952 400
Intermunicipal bodies	81 200	88 300	93 400
Other bodies <sup>(1)</sup>	83 300	124 600	136 900
Home child-minders	44 100	56 900	56 600
<b>TOTAL</b>	<b>1 229 300</b>	<b>1 365 600</b>	<b>1 403 200</b>

1. Including various private and semi-public administrative bodies, various "industrial and commercial" public bodies, trade unions, private bodies for local action, public HLM offices (controlled rent housing), municipal credit banks.

Sources: For 1985 : *Annales statistiques de la fonction publique*, INSEE-Résultats n°28-29

For 1991 and 1993 : *Les effectifs des collectivités territoriales*, INSEE-Résultats n°95-96.

Statistics on sub-national staff are harder to establish reliably than State figures, because of the greater numbers involved, and because sub-national governments are freer than the State to make use of contract staff. As at 31 December 1990, there were a total of 1 263 927 sub-national civil servants, i.e. 28 per cent of all public officials. The 647 800 officials of the public hospital system (14 per cent of the total), although many aspects of their recruitment and careers are dealt with nationally, work for local public employers, since hospitals are either municipal or departmental. The breakdown by type of employing authority was as follows: municipalities 854 167, *départements* 151 826 and regions 5 103, the remainder working for intermunicipal groupings.

*Mobility*: Statutory distinctions between national and sub-national civil servants, together with the traditional separation of the French administration into different corps does not encourage mobility across levels of government. That said, movement is more frequent for senior staff than for lower grades.

### 3. Trends in redistributing authority across levels of government

#### 3.1 *Evolving tendencies*

A significant phase in the administrative history of France was a move towards centralisation and concentration of power that stretched from the 16th century to the early 19th, culminating in the Napoleonic administration. From 1830, the pendulum swung back to a gradual decentralisation marked by three main phenomena. The appointment of local officials was gradually replaced by their election; administrative districts were to some extent replaced by sub-national governments with legal personality and overall jurisdiction over matters of local concern; and powers and appropriations in fields previously administered by the State's deconcentrated services were gradually transferred to sub-national governments. This decentralisation trend is accompanied by a certain movement towards “deconcentration”.

The policy initiated by President Mitterrand as soon as he came to power in May 1981 was to some extent a break with the timidity of the decentralisation measures that had been contemplated or undertaken since the early 19th century, but it was also a continuation of the deconcentration trend that had been accelerated by General de Gaulle's governments of the early 1960s.

There are four basic aspects to the decentralisation reforms of 1982 and subsequent years:

- The introduction of the region as a new sub-national government. Preceded by the setting up of regional action districts and, later, of regional public organisations by the State, the Act of 1982 made the regions into new sub-national governments organised on similar lines to municipalities and *départements* but whose responsibilities were more medium-term oriented. Since the Act stipulated that the new regional institutions could only come into being once regional councils had been elected, most regions were not established until 1986, except for Corsica (1982) and the four overseas regions (1983). The voting arrangements for electing regional assemblies and the types of responsibilities with which they were invested made regions less important than *départements* or municipalities in the administration of public policies.
- The transfer of power between the State and sub-national governments. The principle adopted in 1993 was to transfer responsibilities in clusters (the so-called “layer cake” system), although it could not be fully implemented.
- The replacement of the prefect by an elected official as chief executive of the *département* and the region.
- The changing nature of State control over sub-national governments (henceforth *ex-post* jurisdictional control) which gives great freedom to French local authorities.

This institutional change is accompanied by two important phenomena:

- real regional (and especially departmental) administrations have been set up;
- new local political elites have been created.

This decentralisation is accompanied by a continuing move to deconcentration: ten years after the Act that defined the rights and freedoms of municipalities, *départements* and regions, the Act of 6 February 1992 on the sub-national administration of the Republic attempted to supplement, and on certain points rectify, decentralisation reforms. The new Act had four objectives: to improve the functioning of local democracy, spur co-operation between sub-national governments, tighten the State's administrative control over their actions and, above all, to establish deconcentration as the keystone of State administration (subject to some degree to the principle of subsidiarity). The Act was implemented by the “Deconcentration Charter”, which was adopted by a governmental decree of 1 July 1992. It

strengthened the power of the prefects to co-ordinate all deconcentrated services of the State within their respective districts and established a hierarchy between regional prefects and those of *départements*.

### 3.2 *The current debate*

The government that was formed in the wake of the March 1993 elections has carried on the decentralisation and deconcentration reforms of the past decade.

Nevertheless, it has two projects that add new dimensions.

- In November 1993, the Prime Minister set up a commission (*Commission Picq*) to take stock of the functions of the State (broadly defined as all public authorities) and how they are divided among the various levels of administration.
- In addition, the Ministry of the Interior has developed major planning proposals which might ultimately lead to an administrative restructuring of the State, and even a redistribution of powers and boundaries among sub-national governments. The legislation adopted by Parliament in 1994, however, contains no radical changes.

### 3.3 *Driving forces*

On the whole, the forces driving the move towards decentralisation seem to emanate much more from political circles than from any other segment of society.

**Political forces:** The political climate of the 1980s made political parties one of the chief proponents of decentralisation. The reforms were undertaken at the personal initiative of President Mitterrand and his Minister of the Interior, Gaston Defferre. While they squared with the Socialist Party platform, they probably went farther than a significant percentage of the party faithful, steeped in Jacobin tradition, would have wished. In this case the opposition did not slow reform but rather helped to legitimise it, in contrast to its stance towards the nationalisation programme that was under way at the same time.

“Local notables” have traditionally played an important role in French society. As the number of responsible positions increased, generated by the transfer of executive authority from prefects to council chairmen, as well as by transfers of powers, it had a cumulative effect: dynamic personalities ran for such offices and, once elected, demanded more power. As a result, local elected officials gave political parties added leverage.

**State civil servants:** They were initially reticent about these reforms, which deprived them of some of their power and could even, in some cases, cause them to be re-assigned through staff transfers. Later, however, the growth of sub-national administrations and their staffs had a stimulative effect -- so much so that it was not uncommon for State civil servants (including prefects) to arrange to be seconded to sub-national administrations or the private offices of general or regional council chairmen.

**Economic forces:** In France as elsewhere, economic forces favour less bureaucracy and closer links between the administration and the business world. Nonetheless, it is not clear that those forces play much of a role in decentralisation, since they frequently do better with well managed deconcentrated services of the State than they do with local administrations. However, some businesses undoubtedly

push for decentralisation, seeing it as a potential gateway to official support for their investment projects -  
- in a lower key, but more readily accessible.

**Social forces:** Whether organised (unions, associations, etc.) or not, social forces appear to support decentralisation. They advocate it on the regional level and, to some extent, in the *départements*, but to a much lesser degree at the municipal level.