
The French Experience of Decentralization



Index

1.	A short history of the French decentralization	4
2.	The financial aspects of decentralization	6
3.	The different levels of decentralized administrations	7
3.1.	The Region	7
3.1.1.	The Regional Councils.....	7
3.1.2.	The Regional Economic, Social and Environmental Councils	8
3.2.	The <i>Départements</i>	9
3.3.	The Communes.....	10
3.3.1.	The 36 000 Communes.....	10
3.3.2.	The Community of Communes or Intercommunalities.....	11
4.	The administration of the decentralized administrations.....	13
4.1.	The elected Councils and their Presidents	13
4.2.	The means of action of local decentralized authorities	13
4.3.	The Budget building and budget cycle	14
4.4.	Organization and management.....	15
4.4.1.	The organization and the decision making process	15
4.4.2.	The Civil servant status.....	15
4.4.3.	The management of the decentralized administration	17
5.	The Prefect and the deconcentration in France.....	19
5.1.	The historical background of deconcentration	19
5.2.	The Prefect in 1980, before the decentralization laws	19
5.3.	The 1982 reform of decentralization and the deconcentration	20
5.4.	The Legal oversight by the Prefect.....	21
5.5.	The Prefect fulfills the function of government public relations officer in the <i>Département</i> and is responsible for public order.....	21
5.6.	The Regional Prefects	22
5.7.	The changes in the relationship between the State and local government	23
6.	The indispensable control of the use of public money in the French Decentralization	24
6.1.	The fight against corruption of the decentralized officials and civil servants.....	24
6.2.	More democracy in the use of public money.....	24
6.3.	The legal fight against misuse of public money and the Regional court of account.....	25
7.	Conclusion	27
	About the Authors:.....	28
	Appendix.....	29

Décentralisation is a French word for both a policy concept in French politics from 1968–1990, and a term employed to describe the results of the evolution of the spatial, economic and institutional organization of France.

The great French Philosopher and thinker of the modern 19th century democracy Alexis de Tocqueville once said “decentralization has not only an administrative value, but also a civic dimension, since it increases the opportunities for citizens to take interest in public affairs; it makes them accustomed to using freedom. And from the accumulation of these local, active freedoms is born the most efficient counterweight against the claims of the central government, even if it were supported by an impersonal, collective will.”

In the French experience, territorial decentralization is about giving territorial authorities in France separate and defined responsibilities and resources, and providing for the election of representatives by the citizens of those territories. This is different from “deconcentration”, which is when the central government aims to improve efficiency by delegating certain policies and powers to a centrally nominated representative: the Prefect (*Préfet*).

Currently, the French decentralized administration is divided in four different layers of administrative and political structures:

- The Commune, with around 36 000 municipalities, for historical reasons.
- The Inter-communal structures where several Communes can unite to implement special fields of public policies.
- The *Département*, with 101 in mainland France and overseas.
- The Region, 27 until December 31st 2015 and 18 after.

1. A short history of the French decentralization

In French History, and contrary to other European countries like Italy or Germany, the State preceded and created the Nation. The French State was soon very centralized and, with the beginning of the French Republic after the French Revolution of 1789, the first territorial organization with the Communes (or Municipalities) and the *Département* was designed like a copy of the national republican model. The Mayors were first representatives of the State, with little autonomous power, before becoming representatives of a local community.

The decentralization laws passed on 10 August 1871 and 5 April 1884 saw the attribution of powers to elected *Département* Councils and municipal Councils. This first decentralization was built upon preexisting structures and on the image of the organization of the State. Until the 1982 decentralization laws the *Département* elected Councils had very limited powers and were effectively under the stewardship of the *Département's* Prefect, the local representative of the State.

Until the 1980s centralization remained the dominant force in French politics despite failed attempts of certain reformers in the past, and the spirit of decentralization took a long time to penetrate the political and administrative culture of France's ruling elites. In 1981 a socialist President, François Mitterrand, was elected, followed shortly by the election of a socialist majority in the national legislature. The Left was to lead a socialist experiment that would change the distribution of power and resources within French society for the first time under the Fifth Republic. On March 2, 1982, the first law that set off a wave of decentralization reforms was implemented and by 1986 there were 40 laws and 300 decrees. The 1982 law passed by the government of Pierre Mauroy introduced three new elements :

- the administrative stewardship of the Prefect was replaced by a legal checks and balances system exercised by the administrative courts and the Regional courts of audit with the help of the Prefects ;
- *Départemental* executive power was transferred from the Prefect to the President of the *Départemental* elected Council ;
- the creation of Regions with full powers and recognition as territorial Collectivities.

The 1983 Laws (the so-called Gaston Defferre Laws), voted on January 7th and July 22nd defined the responsibilities of the new administrative bodies and how they would be financed.

The goal of decentralization in France was first and foremost to break the cycle of the central welfare State mentality, and ensure that industrial and urban development would entail dynamism rather than "dirigisme" (State managed economy). It further sought to revitalize the peripheral regions politically, administratively, and economically, and make local government more effective. The concomitant political result was to force local politicians to become more responsible for their decisions, and to have enough productive jobs in the periphery so that fewer people would depend on State-financed welfare.

The French administrative system is vertically sub-divided between four main levels: Communes, inter-communal structures, *départements*, and Regions. Particularly relevant are the Communes, *départements*, and Regions, which are governed by democratically elected Councils and executives. The first stage of decentralization immediately transferred the traditional powers of the Prefect to newly created Regions, and to the historic *départements*, both of which became local forms of government with decision-making powers. Regions and *départements* gained the freedom to organize technical and public services, and the Communes, whose Mayors traditionally had executive powers, gained more subtle autonomous powers, most of which strengthened the traditional duties of Mayors. While his loss

of power was dramatic, the Prefect still remains the sole representative of the central State's interest in the French territory, which is significant considering that the center has an authoritative position regarding the status of subnational institutions.

In 2002 and 2004 the second stage of Territorial Decentralization was set in motion by Prime Minister Jean-Pierre Raffarin. The 2003 (28 March) change to the French Constitution introduced the principle of financial autonomy for territorial Collectivities and saw the introduction of the words Region and Decentralization in the French Constitution (article 72¹). The changes also introduced the possibility of holding local referenda and the right to petition. The constitutional changes strengthened the two core principle of decentralization: free administration and autonomy of decision for local governments. But in reality those two principles have several technical limitations.

The second phase of the 2003-2004 decentralization was the transfer of administrative functions to subnational (local) government, specifically those related to economic development. The Regions are now in charge of regional economic planning and policy, industrial development, and professional education; the *Départements* are responsible for some health and social services, construction and maintenance of public infrastructures, secondary education infrastructures(though teaching remains a State prerogative) and transportations; Communes retain traditional duties regarding municipal services and primary education infrastructures, with the addition of land-use plans and issuing of building permits.

Since 2013, a new phase has begun with a third wave of reforms in order to specialize the *Régions* and of the *Département* and to merge different Regions together in order to reduce their number.

Between 1982 and the present time, we observe a withdrawal of the State from the territories with the creation of new levels of responsibilities on a bigger scale, with for example the Region, in order to address the new challenges of globalization.

In France, like in some other Europeans countries, there is a slow decrease in participation in elections, especially local elections. It can come from the fact that with an ever increasing mobility of the population, the bonds between the citizen and their local institutions have become looser.

¹Appendix : Article 72 of the French Constitution

2. The financial aspects of decentralization

The total budget of the decentralized administration represents 229.8 billion euros in 2015 (estimated).

In 2015, 131 billion euros of local spending were covered by taxes and excise set and raised locally. The main taxes are:

- Property tax and Land tax (24%)
- Business tax (20%)
- Local amenities tax (16%)
- Insurance and gasoline tax (14%)
- Property transaction tax (8%)

There is also various other smaller taxes (for 18%) like:

- public transport contribution
- tourist tax
- advertising tax
- gambling tax
- Other taxes

The decentralized administration relies also on government transfers and grants. In 2015 these transfers represented 45 billion euros (7 billion less than their 2012 peak) of local spending. The grants cover the increased spending of local authorities due to the transfer of responsibilities from the central to local government during the successive decentralization phases, and insure the equalization of the financial resources under various criteria.

The grants and transfers fall into 3 categories:

- grants and subsidies for current spending ;
- grants and subsidies for infrastructure ;
- compensation for the transfer of responsibilities.

The local authorities are free to spend these resources as they want, however due to the ever increasing cost of these grants a Stability Pact was put in place in 1996 and later replaced by the European Growth and Solidarity pact in 1999.

Borrowing is the third biggest source of resources for local government in France. This debt represents 178.5 billion euros with 20 billion of new borrowing in 2015. Local authorities do not need to seek central government authorization to borrow money but all resources from borrowing can only be spent on investments and never on current spending.

The remainder of local government resources (11%) comes from rents, duties and European structural funds.

The financial resources of the decentralized authorities rely on a fiscal system based mostly on a property system with property and land taxes based on the estimated rent value of property.

3. The different levels of decentralized administrations

3.1. The Region

3.1.1. The Regional Councils



France was, until December 31st 2015, divided into 27 administrative Regions (French: *Région*), 22 of which are in Metropolitan France, and five of which are overseas. The island of Corsica is a territorial collectivity (French *collectivité territoriale*), but is considered a Region in mainstream usage. The mainland Regions and Corsica are each further subdivided into *Départements*, ranging in number from 2 to 13 per Region for the metropolitan (mainland and Corsica) Regions; the overseas Regions consist of only one *Département* each. The term Region was officially created by the Law of Decentralization (2 March 1982), which also gave Regions their legal status: the Regional Councils.

So between the innovations of the French Revolution in 1789 and the laws of 1982, it was all *Départements* (and their perimeter was modified periodically). The Law of Decentralization then introduced administrative areas reminiscent of the historic French provinces (though Normandy was

divided into two pieces, and some historic provinces were jammed together like Provence, the Alps, and the Côte d'Azur).

Unlike European federal States like Germany, the French Regions lack separate legislative authority (i.e. legislative autonomy) and therefore cannot write their own statutory law. They levy their own taxes and, in return, receive a decreasing part of their budget from the central government, which gives them a portion of the taxes it levies. They also have considerable budgets managed by a Regional Council (*Conseil Régional*) made up of representatives voted into office in Regional elections.

Regional Councils were created by law on July 5th 1972. Originally, these councils were simply consultative bodies consisting of the Region's parliamentary representatives plus an equal number of members nominated by the *Départements* and Communes. The decentralization program of 1982-1983 provided for direct election of the Regional Councils, which first took place in 1986 and increased the powers of the Regional Councils.

In 2014, the French Parliament (the National Assembly and the Senate) passed a law that reduces the number of Regions in Metropolitan France from 22 to 13. The new Regions map took effect on January 1st 2016

The Regions are now in charge of:

- Regional economic planning and policy, industrial development,
- Professional education and high schools (but not the management of the teachers and the school programs), professional education for the unemployed,
- Transportation outside of cities (interurban busses, Regional trains, school buses for high schools) sometimes they are responsible for some local ports and airports,
- Environmental protection with some special plans organization.

The Regions and the *Département* have share responsibilities regarding the following public policies:

- Culture,
- Sport,
- Tourism,
- Regional languages.

3.1.2. The Regional Economic, Social and Environmental Councils

The Regional Economic, Social and Environmental Council (RESEC) works with the Regional Council for a given "Region", assisting in governance through the opinions it issues.

Each RESEC comprises four colleges representing companies, self-employed professionals, trade unions, associations and other bodies involved in community life in the Region and "qualified" persons. Members are appointed by Prefectoral decree every six years and reappointed by decree in line with each new mandate.

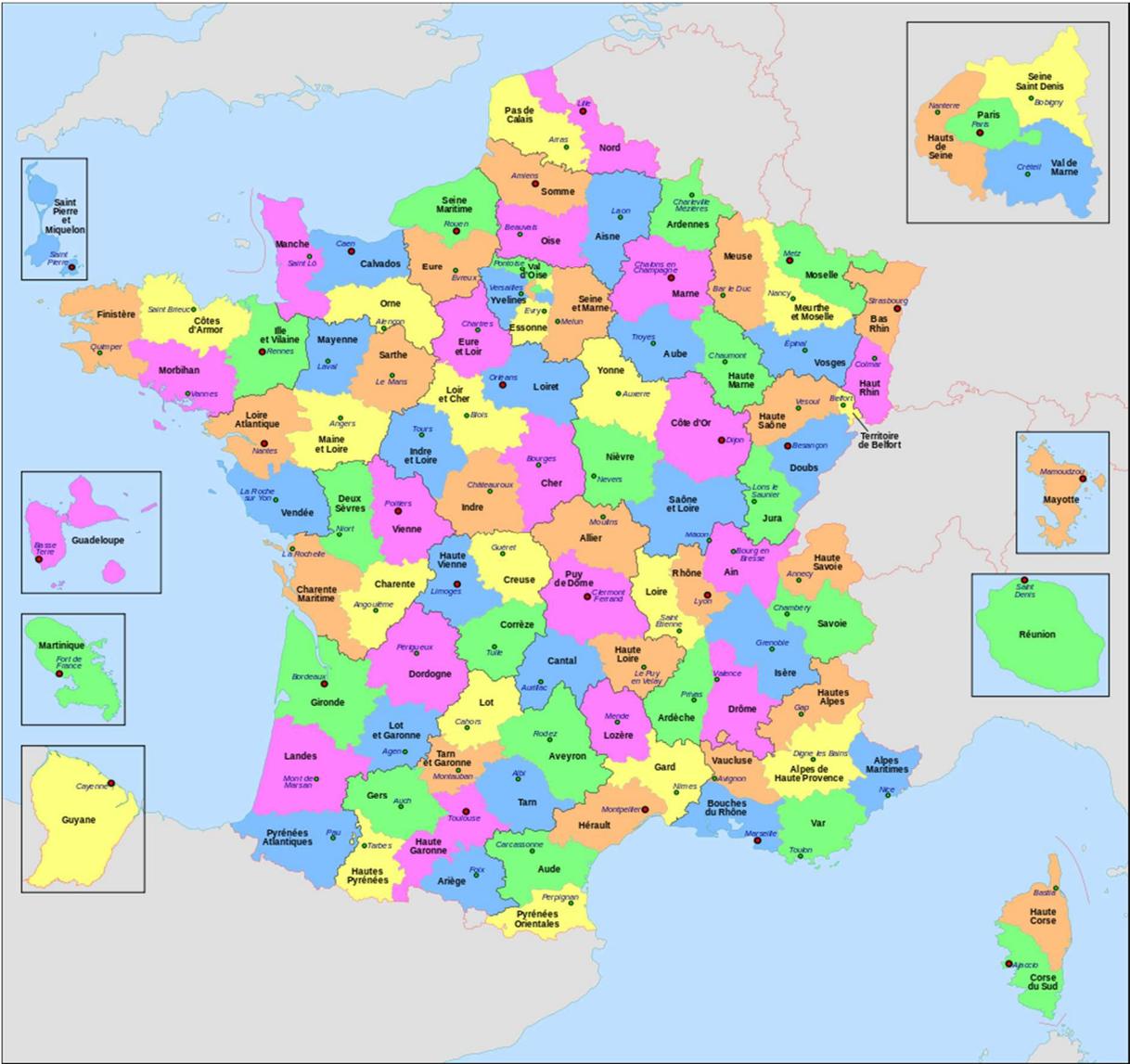
It is mandatory to consult the RESEC on any budget documents and strategic plans for the Region.

The President of the Regional Council may refer matters to the RESEC for an opinion or report on any given topic. The RESEC may also issue opinions of its own accord on any matters of Regional interest or may be called on by the Prefect to analyze government initiatives in the Region.

Although RESEC performs the same functions in every Region, their number of members and composition of groups are not always the same, with each RESEC reflecting key economic and social interest groups in its Region.

Each RESEC promotes partnership, contributing to balanced growth throughout the Region and encouraging unity and solidarity as a source of social innovation, prevention and regulation. Each pursues a long-term approach.

3.2. The *Départements*



In the administrative divisions of France, the *Département* is one of the three levels of government below the national level (“territorial collectivities”), between the administrative Regions and the Communes. There are 96 *Départements* in metropolitan France and 5 overseas *Départements*, which also are classified as Regions.

The *Départements* are further subdivided into 335 *arrondissements*, themselves divided into *Cantons*; the latter two have no autonomy and are used for the organization of police, fire departments and sometimes elections.

The *Départemental* Councils are the elected assemblies of the *Départements*. Elected by universal suffrage, they were called General Councils prior to March 2014.

The law passed on December 22nd, 1789 required the establishment of an assembly in each *Département*, known as the Council of the *Département*. This law was repealed on December 4th, 1793; it was restored as the "law on the division of the territory of the Republic and its administration" on February 17th, 1800, in which, "General Council of the *Départements*" were formed. The members of the general Council were not elected by suffrage until 1833; they were elected by universal suffrage from 3 July 1848. Until the March 1982 law of decentralization, the *Département* Prefect also served as the *Département's* State representative and the *Département* executive; since 1982, the President of the Council is the *Département's* executive body. The law of February 26th, 2008 means that there must be at least a single candidate of each gender in a *Département* Council election elected by two-person team in each *Canton*.

The *Départements* are in charge of:

- Intercity roads (*routes départementales*),
- Some social policies and welfare allowances,
- Secondary (or middle/junior high) school (except teaching and school programs/curriculums).

The Regions and the *Département* have share responsibilities regarding the following public policies:

- Culture,
- Sport,
- Tourism,
- Regional languages.

3.3. The Communes

3.3.1. The 36 000 Communes

A French Commune may be a city of 2.2 million inhabitants like Paris, a town of 10,000 people, or just a 10-person hamlet. Communes are typically based on pre-existing villages and facilitate local governance. Except for the municipal *arrondissements* of its largest cities such as Paris, Lyon or Marseille, the Communes are the lowest level of administrative division in France and are governed by elected officials (Mayor and a municipal Council - the French *Conseil Municipal*-) with extensive autonomous powers to implement national and local policy.

As of January 2015, there were 36,681 Communes in France, 36,552 of them in metropolitan France and 129 of them overseas. This is a considerably higher total than that of any other European country and around 40% of all the Commune-level administration in the European Union.

The Communes are responsible for almost all matters regarding the life of the Commune especially:

- Primary schools and Pre-school,
- Local roads,
- Local police and public order,
- Urbanism,
- Local ports and canal,
- Housing,
- Cemeteries,
- Culture and sport equipments and incentives policies,
- Local social services,
- Local transportations,
- Gas and electricity networks.

Several responsibilities can be delegated to the “Intercommunality” such as garbage collection or transportation, but the law also makes it mandatory for the intercommunities to manage other areas such as economic planning and development, housing projects, or environment protection

3.3.2. The Community of Communes or Intercommunalities

The expression "Intercommunality" (*intercommunalité*) denotes several forms of cooperation between Communes. Such cooperation first made its appearance at the end of the 19th century in a law on 22 March 1890, which provided for the establishment of single-purpose intercommunal associations. Basically it means municipal councils pooling resources to implement public policies and services more effectively, especially when there are easy economies of scale to make, when the cost of a policy or equipment is too high to be borne by a single Commune, or when such a policy or equipment would benefit several Communes (a swimming pool or a library for example). French lawmakers, having long been aware of the inadequacy of the communal structure inherited from the French Revolution for dealing with a number of practical matters, the so-called Chevènement law of 12 July 1999 is the most recent and most thoroughgoing measure aimed at strengthening and simplifying this principle.

In recent years it has become increasingly common for Communes to unite in intercommunal consortia for the provision of public services such as refuse collection and water supply. Suburban Communes often team up with the city at the core of their urban area to form a community responsible for managing public transportation or even administering the collection of local taxes. Almost all the French Communes are now involved in intercommunal structures.

The Chevènement law has been extremely successful in the sense that a majority of French Communes now have joined the new intercommunal structures. Now there is a national aim to integrate every Commune in an intercommunal structure. On the 1st of January 2014, there were more than 12 000 Intercommunal structures.

There are two types of these structures:

- Those without fiscal power, the loosest form of intercommunality. Mainly in this category are the traditional syndicates of Communes. Communes gather and contribute financially to the syndicate, but the syndicate cannot levy its own taxes. Communes can leave the syndicate at any time. Syndicates can be set up for a particular purpose (most commonly waste management and water/energy distribution) or to deal with several simultaneous matters. These structures are on the decline.

- Structures with fiscal power (around 2000). It distinguishes several structures with fiscal power:
 - the Community of Communes (*Communauté de Communes*), aimed primarily at rural Communes;
 - the Community of Agglomeration (*Communauté d'Agglomération*), aimed at towns and middle-sized cities and their suburbs
 - The Urban Community (*Communauté Urbaine*), aimed at larger cities and their suburbs.
 - A more integrated form has been created for France's major cities with the Metropole. The Metropole can have increased responsibilities and tasks taken from the *Département* and the Regions.

These structures are given varying levels of fiscal autonomy, with the Community of Agglomeration, the Urban Community and the *Métropole* having the most fiscal autonomy, with the same level of taxation across the Communes of the community. The Communities must also manage some services previously performed by the Communes, such as garbage collection or transportation, but the law also makes it mandatory for the Communities to manage other areas such as economic planning and development, housing projects, or environment protection. Communities of Communes have the least compulsory areas of competence, leaving the Communes more autonomous, while Urban Communities and Metropoles are required to manage most matters, leaving the Communes within them with less autonomy.

One major and often raised problem with Intercommunality is the fact that the representatives of intercommunal structures are not directly elected by local citizens, representatives of each individual Commune sit in intercommunal structure. As a consequence, civil servants and bureaucrats are the ones setting up the agenda and implementing it, with the elected representatives of the Communes only endorsing key decisions.

4. The administration of the decentralized administrations

4.1. The elected Councils and their Presidents

The local Councils' assemblies of the four layers of decentralized authorities are either elected (Communes, *Département*, and Region) or designated (Intercommunality). There is because of this four layers system around one half million elected representatives (in a population of 66 million people) in France. Those elected officials can have financial compensations if the Council they are members of decided so. The compensation levels are fixed by law and limited by the demographic size of the structure and the role of the member in the assembly (president, vice-president, etc.).

By law, the representatives of the local assembly have a right to be informed in order to vote on the matters within their sphere of competence. In some cases, like for the budget, the documents that have to be transmitted are clearly defined by law. They have also, by law, the right to be trained in order to complete their tasks.

The elected members sometimes enjoy (depending on the population of the administrated territory) special powers and responsibilities:

- The Mayor of the Commune is at the same time an agent of the State and the head of the communal assembly. By his responsibility as an agent of the State, he is responsible for the registry office, for the public order and for the organization of elections. By his responsibility of chief of the communal assembly, he has to prepare and implement the decisions of the elected communal Council. He is the head of the local administration. He is responsible for the budget. He can delegate, under his monitoring and his responsibility, some of his missions to other members of the assembly like one or several deputy Mayors. He can also delegate his right of signature to any member of the administration like the director general. He is also the chief of the local police.
- The President of an Intercommunality, Departemental or Regional structure has almost the same kind of powers: he is elected by the members of the Elected Council. He has to prepare and implement the decisions of the elected Council. He is the head of the administration. He is responsible for the budget. He can delegate, under his monitoring and with his responsibility, some of his tasks to other members of the assembly bearing the title of vice-Presidents. He can authorize any member of the administration like the director general or any director to sign on his behalf when it is needed.

The latest laws addressing the plurality of local and national offices forbid anyone to be member of more than one local executive and parliament offices. They can be suspended or revoked in some special case by a disciplinary procedure and by a decision of the Prime Minister or the Council of ministers in cases of a revocation.

4.2. The means of action of local decentralized authorities

The decentralized authorities can manage their public policies with several legal tools. They can organize, except when it is made mandatory by the law, public services the way they see the fittest to local interest.

Therefore, according to the French and Europeans legislations, they can provide public services with four way:

- By doing it with their own civil servant, in an internalized way but with different possible levels of autonomy
- By public procurement
- By delegation of public services with a private, a semi-private or a fully public company or by public private partnership
- By making an agreement with local or national voluntary associations or NGO.

They can vote also for special financial or material benefits and allowances for private persons or companies in a clearly defined frame of national law (for private persons) or European decisions (for companies).

The documents and decisions produced by the local assemblies are public and are often available online. The debates of the Council are public too and sometimes available online.

4.3. The Budget building and budget cycle

The budget is built by respecting accounting norms, designed for every level of decentralized administrations, and based upon international norms. The budgetary process is identical for every decentralized administrations.

First, the budget has to take in account the information given by the State, especially regarding the level of the incomes of the different taxes and the level of the different grants and transfers regarding the national budget. The State also defines spending objectives, especially concerning social expenditures. Then, the local administration and the local assembly work together in order to evaluate the needs, the upcoming projects and the evolution of the salaries of the civil servants of the decentralized administration. Also, a short and medium-term risk assessment is conducted, to evaluate the financial, social and organizational risks of public policies and projects. During the elective mandate, there is usually a multiyear perspective for the different projects in order to plan and organize investments.

The decentralized authorities can't create new taxes but they can adjust some of the rates in a restricted frame for the taxes they are responsible for. Some expenditures are mandatory.

Secondly, there is a debate about budgetary orientations two month before the budget is voted. This debate is mandatory and is a time of discussion about the upcoming projects of the year between the majority and the opposition in local Councils.

Thirdly, the budget has to be voted before the 15th of April of the year of its implementation. Usually the budget is voted in December shortly before the year of its implementation

Fourthly, the budget draft is send to the local representative of the State, the Prefect, in order to check the respect of the legal budgetary framework. When a budget is not voted on time or does not respect the legal framework, the Prefect has some powers to fix it, sometimes with the technical help of the Regional court of account.

Fifthly, the budget can be modified during the year in order to adapt it to the actual expenditures of the structure or to any unexpected event or new sources of spending or income. Those modifications are also checked by the Prefect's services.

During the year, the expenses are made inside a strict and clear workflow involving the local representative of the ministry of finance who is responsible for the "bank account" of the decentralized administration.

After the year, the decentralized administration has to vote the “administrative account” before the 30th of June. The administrative account is compared with the account held by the local representative of the ministry of finance (called the “public accountant” in France). Those accounts are also checked by the Prefect’s services.

All of those documents are public and mostly available online. The debates of the Council on the budget are public too and sometimes available online.

4.4. Organization and management

4.4.1. The organization and the decision making process

Most decentralized administrations have an organizational chart and some internal procedural guidelines in order to define the responsibility of the different parts of the administration. As mentioned in the French Constitution, the decentralized authorities are free to organize themselves. The administration is often organized as follows:

- At the top, there is the elected executive head of the assembly: the Mayor or the President. He can be assisted by a variable number of vice Presidents. Those vice-Presidents are sometimes specialized in several technical themes: education, economics, culture, etc.
- As already mentioned, the elected executive head of the assembly is the head of the administration and he chooses a secretary general (or a director general) in order to manage the administration.
- In order to organize the political agenda of the elected executive head, there is a cabinet with few members (sometimes specialized on technical aspects) assisting the chief or director of the cabinet.
- The secretary general (or director general) is assisted sometimes by a various number of deputy secretary generals or deputy director generals. They have to be at least 40% female. Those deputies can be specialized in one or several public policies and are managing the operating service of the administration. Those deputy secretaries general or directors general have a special status and can be revoked at will by the elected executive head of the assembly.
- Under them, the services are organized with specialized directors or heads of departments and civil servants. Most of them enjoy the civil servant status which guaranties them a working stability, along with a set of special rights and obligations.

4.4.2. The Civil servant status

The French Civil Service (French: *fonction publique française*) is the corps of civil servants (*fonctionnaires*) working for the French government or decentralized administrations. All employees of the State and public institutions or corporations are not civil servants; however, the media often incorrectly equate "government employee" or "employee of a public corporation" with *fonctionnaire* (civil servant). The Civil Service is also sometimes incorrectly referred to as the administration, but, properly speaking, the administration is the compound of public administrations and public administrative establishments, not their employees.

The French public service consists of three main sections – State civil service (central administrations, Regional and *Départemental* services of the State, public establishments of the State), – territorial civil service (civil servants of the Communes, *Départements* and Regions), – hospital civil service (administrative and nursing staffs of public hospitals).

The local government civil service (*fonction publique territoriale*) was created in 1984, as part of the decentralization process. It includes almost all employment in local governments (Commune, *Département* and Regions).

In regard to the organization of the civil service, the categories described below are not only used for hierarchical purpose, but also for clarifying employment conditions, as well as calculating salaries:

Category => Corps/employment framework =>Grade => Class =>*Echelon*

First, civil servants are split on the basis of level of responsibility and of education. There are three main categories, from A to C, in decreasing order of educational level required: civil servants in Category A occupy highly skilled or managerial positions, and have a higher education degree; Category B comprises agents in mid-level management tasks and requires a *baccalauréat* (end of secondary school degree); Category C includes personnel dedicated to day to day administrative tasks. Within each category, every civil servant belongs to a corps or an employment framework for the local government civil service. The High ranking civil servants are commonly labeled as A+.

Corps or employment framework consist of civil servants ruled, managed and promoted according to the same own particular statute, supplementing the general statutory rules. Corps or employment framework refer to a job family and qualification.

Civil servants have duties; failure to carry them out may result in disciplinary action, up to revocation. The main duties are:

- **Full commitment to professional activity:** A civil servant should devote his full professional activity to his appointed task. By exception, a civil servant may in addition to his regular activities accomplish certain tasks (teaching, arts, competitive sports...) with the permission of his hierarchy if there is a remuneration.
- **Morality:** one cannot be a civil servant if one has been convicted of a crime incompatible with one's functions. In certain exceptional cases, certain aspects of the private life of a civil servant may be termed incompatible with his functions. For instance, it is inappropriate for a member of the police or the judiciary to live with a delinquent partner. Appreciation of what is appropriate or not is largely a matter of case law.
- **Duty of reserve:** A civil servant should not, by his actions and especially by his declarations, cause harm to institutions. Generally speaking, a civil servant should always refrain from enunciating personal opinions in a manner that can be construed as expressing the official opinion of the French government, a public or local institution. Obviously, this is more of a matter for the higher managerial positions.
- **Hierarchical obedience:** A civil servant must accomplish the orders given by his hierarchical supervisor, unless those orders are evidently illegal and contrary to public interest. While the hierarchical authority is normally responsible for assigning civil servants to positions and evaluating their work, certain corps of civil servants follow specific rules regarding the management, evaluation and discipline of their members.
- **Professional discretion:** Civil servants must not reveal private or secret information that they have gained in the course of their duties.
- **Honesty:** Civil servants must not use the means at their professional disposal for private gain. They must report any illegal activities they witnesses and they can disobey illegal instructions.
- **Neutrality** Civil servant must be neutral with respect to the religious or political opinions, origin, or sex, and should refrain from expressing their own opinions.

Most positions are open to citizens of the European Union. Certain positions involving the main powers of the State (e.g. Police) are open only to French nationals. Some rare positions, e.g. university professors and researchers, are open to anyone regardless of citizenship.

As an exception to the general rules concerning workers, civil servants do not sign contracts; their situation is defined by statutory and regulatory law, most notably the General Statute of the Civil Servants (*Statut Général des Fonctionnaires*).

The general rule is that civil servants are recruited through competitive exams, either:

- External, reserved to candidates fulfilling certain conditions of diplomas and age;
- Internal, reserved to civil servants in certain positions;
- External “third way”, reserved to candidates having certain professional experiences and age.

The most common method is to organize written and/or oral competitive exams in subjects pertaining to the tasks to be accomplished. In all cases, a committee ranks candidates by order of preference. For some top managerial positions, like the secretary general and his deputies in a local administration, nominations are at the discretion of the local executive.

The pay of a civil servant is composed of:

- A base pay known as “traitement”,
- Possible overtime pay,
- Possible bonuses, which depend on the particular job assignment and possibly of the individual worker.

The “traitement” is for most civil servants fixed by multiply an index by the value of the index point in Euros. The value of the index point is set by the national. The index depends on the corps, rank and seniority in rank (échelon). New laws introduce special financial incentives for merit and productivity.

There are special rules for the pays of elected officials on national and local level and government ministers.

The local government civil service are trained and educated by the National center for the territorial civil servant (CNFPT: *Centre National de la Fonction Publique Territoriale*). For the high ranking civil servant, the A+ (administrators) are educated after a competitive exam at the National institute for territorial studies (INET : *Institut National des Études Territoriales*) in Strasbourg for 18 month.

For the high ranking civil servant of the State like the Prefects, the A+ are educated after a competitive exam at the National School for Administration (ENA : *Ecole Nationale d'Administration*) in Strasbourg for 24 month.

4.4.3. The management of the decentralized administration

Originally, the management of the public local administration was inspired by the traditional hierarchical way of management of the State administration inspired by military organization.

With the laws of 1982, the decentralized administration gain a power of self-organization and so the ways of management became more diverse. Some French decentralized administrations integrated some of the principles of new public management. This system emphasizes the concept that ideas and practices used in the private sector can be applied to the public sector

New Public Management is viewed as a more efficient means of attaining the same product or service; where citizens are viewed as customers and public servants/administrators hold the title of Public Managers. New Public Management tries to realign the relationship between expert managers and their political superiors, making a parallel relationship between the two. Under New Public Management, Public Managers have incentive-based motivation and have greater autonomy (as opposed to a regulated outcome per scenario, regardless of situation). New public management tries to integrate the best methods for international management (the American and Japanese schools for instance) and to adapt it to the characteristics of the public administration.

To summarize, French public management, though still largely driven by traditional pyramidal organizations, tries to be open to new ideas and concepts in management and government, new public management being the dominant force since the early 2000s.

5. The Prefect and the deconcentration in France

Known until recently for her "centralizing tradition", France was a country where decisions were basically taken in Paris and implemented throughout the country by State-appointed representatives. This is still partly true, but much has changed, especially since 1982.

5.1. The historical background of deconcentration

The *Préfet* (Prefect) is a specifically French institution brought in by Napoleon in 1800. Prefects succeeded the intendants of the kings of France, responsible for enforcing the king's orders in the provinces.

On December 22nd, 1789, the French Constituent Assembly created the first 83 *Départements*, each with an assembly and an 8-member executive. There was no longer any representative of the State. The *Département* assemblies had unsupervised administrative powers, but their existence ended in April 1793 when the representatives of the people were drawn from the revolutionary committees. The office of Prefect was then created in 1800 by Napoleon Bonaparte.

The aim of the members of the 1789 Constituent Assembly had been to set up a simpler, fairer, locally elected government closer to the people and with a minimum remit. In contrast, Napoleon's Prefect "governed his *Département* alone".

Until the mid-nineteenth century, the Prefect still wielded the full power of the State, despite the existence of a *Départemental* assembly, the General Council (*Conseil général*), whose remit was limited, and whose powers were exercised subject to the Prefect's approval.

At the end of the nineteenth century, the General Council gradually received its own areas of competence, but the Prefect still had to approve the decisions taken. Then, as further changes came in, the General Council was given new powers including the power to adopt its own budget and raise taxes. It also obtained the end of the Prefect's authority over certain decisions. But until 1982, the Prefect was still the *Département's* executive: he was the person who prepared and executed the budget.

None of the regimes France has known has challenged the existence of the office of Prefect. This has made changing and modernizing the administration easier and the existence of representatives who were appointed and could be dismissed by the Council of Ministers has made it easier for Ministers successfully to pursue their initiatives.

5.2. The Prefect in 1980, before the decentralization laws

Provided that it complied with statutes and regulations, the *Département* had its own remit, notably in the health and social spheres, infrastructure, help for small Communes, transportation – especially school transportation –, the environment and sport. Its freedom was, however, limited by the need for State financial help to enable it to act in its areas of competence, especially on health and social matters, even though its assembly had the power to raise certain taxes.

The Prefect was still the *Départemental* executive. But, while this position had still allowed him to impose his view at the beginning of the twentieth century, it was no longer the case at the time of the 1982 reform. Indeed, to be adopted, the budget prepared by the Prefect had to be passed by the

Départementale assembly and, increasingly, the latter was using this power not to reject the budget, but to contribute to its preparation and influence choices; consequently, the Prefect had to reach a compromise in order to get his budget voted. He used to discuss his proposed budget with the General Council chairman, finance committee and a number of other local leaders, so that there was a degree of co-management, cooperation, in short, the beginnings of decentralization – how much there was varied from *Département* to *Département*.

Although the Prefect as *Départementale* executive was no longer all-powerful, as the representative of both the State and the *Département*, he was the authoritative and effective instrument of central government influence.

5.3. The 1982 reform of decentralization and the deconcentration

The 1982 reform involved both decentralization and "deconcentration". "Decentralization" means transferring State power in specific areas to elected local political authorities. "Deconcentration" is the internal decentralization of central government services, i.e. the State transfers some of its powers to its local representatives, so that in these spheres there is no loss of State powers, but a change in the way central government is organized internally.

The difference is important because a decentralized power is appropriated by its beneficiary, in other words by a political authority capable of autonomously enforcing the legislator's decision. By contrast, government ministers retain the possibility of having a say in areas of competence transferred to the Prefect.

Acts passed in 1982 and 1983 brought about a new division of powers between the State, Regions, *Départements* and Communes. Subsequent legislation further increased the *Département's* reserved powers. The Prefect thus lost part of his power over certain decisions previously taken by the State, especially concerning the establishment and upkeep of *collèges* [schools catering for pupils aged approximately 11-15 years], health and social programs, capital spending on sport, the environment, fire services, transport, etc.

Although under the 1982 Act, and later the 1992 Act, the *Départementale* assemblies were assigned new powers previously exercised by the State, in political terms the essence of the reform came with the transfer of the executive to the *Département* Council President, who now prepares and carries out the decisions of the *Départementale* assembly, especially toward the budget. The representative of the State can no longer intervene in the management of the *Département's* areas of competence.

The *Département* no longer receives subsidies from the State for projects within its remit – this also used to be a way for the Prefect to exert influence. The State now allocates one appropriation for capital investment and another for operating costs to the *Départements*. The *Départementale* assembly is free to use this allocated funding as it sees fit.

At the same time as the decentralization, and so as to prevent this undermining the influence of its representative in the *Département* and enable decisions to be brought closer to the citizen, the government decided to implement a policy of administrative "deconcentration" by strengthening the authority of its agent, the Prefect.

The State's representatives in the *Départements* now head the local services of the various ministries. Only the military authorities, judicial services, national education, the work inspection and taxation administrations escape this rule. All the other services have been placed under the authority of the Prefect, who chairs all the local administrative committees, and is the only authority with the power to commit State expenditure in his *Département*. The Prefect may delegate his signature to the heads of the directorates (*Directeurs Départementaux*), but such delegation must clearly mention the power(s) delegated.

Despite these increased powers, the Prefect still has to do the bidding of the government, which, today as before, appoints him and, if it so wishes, replaces him. Although he has to respect the remit of the *Département's* elected representatives, the Prefect must also prevent them from encroaching on the State's powers, which highlights the fact that decentralization and "deconcentration" require a balance which is sometimes hard to find.

5.4. The Legal oversight by the Prefect

Although the Prefect no longer has any control over the opportunity of the decisions taken by the *Départemental* Council or any other decentralized authority in the exercise of its powers, he can refer to the courts any decision he deems against the law and the court will rule on this question.

This gives the Prefect some influence over the decentralized powers, because he can raise any concerns about the legality of locally-voted acts with, for example, the *Départemental* Council President. The prefect can submit any act adopted by a local council to the administrative courts, if he deems the act illegal. It is not a control of the opportunity of the act, but only of its respect of the law.

He cannot refer a decision to the court in one case and not in another identical one: the law must be the same for all. Tact and diplomacy are required, but in the end, after some years of vacillation, respect for this principle has been achieved.

5.5. The Prefect fulfills the function of government public relations officer in the *Département* and is responsible for public order

Through his position the Prefect knows a whole lot of things; many others are also well-informed, but none to the same degree in every sphere. This is why, over and above his official role, he acts as the "government public relations officer" in his *Département*.

He must provide information and explain the government's policy. This is bordering on the political and is sometimes felt as such. But in fact it is not, since the law applies to everyone and it is logical for its implementation to be explained to local leaders and the public. While he has to defend a statute passed by Parliament, in order to protect his authority he has to be prudent and not promote bills – something some politicians do not always understand.

The Prefect is responsible not just for implementing and enforcing legislation, but also for respecting and ensuring others respect the law. Only the Prefect can do this: for example, he may have to interpret a central administration's *circulaire* [*circulaires* have the status of regulations if they contain instructions to civil servants] which seeks to apply the legislative text in a questionable way.

Although government policy needs to be explained, it is also important for Prefects to report back to the government on local reactions to government policy, going beyond any immediate emotional response and distinguishing what is important from minor considerations through proper analysis. It is a serious responsibility to have to tell the government the truth, even if it is unpleasant. It is the first duty of the State representative. However, this is not his most important job in that the office of Prefect is a system of command and leadership which operates through the Prefect's personal authority and his authority over the representatives of the various ministries in the *Département*. He must be able to respond to events and cope with the demands of any situation calling for authoritative action. He must resolve problems and conflicts, get administrative, economic and social leaders to agree. He has a role of mediator. He must be a link, an architect of unity, a reducer of tension.

The Prefect is responsible of the respect of law and order in his *Département*. Since in this sphere he carries the full authority and sovereignty of the State, it is a task of fundamental importance. This requires a leader capable of personally taking responsibility and directing operations under grave circumstances. This is why the police and the gendarmerie (military force charged with police duties) are under his authority. It is the Prefect who authorizes or bans demonstrations. But maintaining public order does not only involve ensuring public peace, but also civil defense, i.e. the protection of people and property from natural, industrial, technological and accidental hazards, as well as crime prevention. The Prefect is responsible for all these matters.

Consequently, the Prefect has to prepare the State services in his *Département* for all eventualities, especially the management of serious accidents and consequences of natural disasters. It is the Prefect whom the public will hold accountable.

In short, the Prefect must be a problem solver, which sometimes means signing something no one wants to sign, interpreting some implementing regulation, if only to resolve a human problem or ensure fairness triumphs over the letter of the law. Of course, the decision taken must be in accordance with the law, its spirit if not its exact wording. Only the Prefect can play, take on this role.

The office therefore requires an ability to take command. A Prefect has to make his presence felt, acquire authority and use it as a means of applying moral justice, a task rendered that much more difficult because he is dealing with the problems of everyday life. But this is also what makes the work of a Prefect so interesting and important.

5.6. The Regional Prefects

The Region is the largest administrative division in France, with each made up of 2-13 *Départements*, and above the *Départemental* Prefects there is a Regional Prefect. But this senior civil servant is not their superior in rank, even though the administrative powers he exercises give him a certain authority over them. The government has only one official representative: the Prefect in his *Département*.

The Regional Prefect combines this office with that of *Départemental* Prefect in the Region's capital city (chef lieu). He has the same function *vis-à-vis* the Regional assembly as the *Départemental* Prefect with regard to the General Council: he is responsible for judicial oversight. He has the same authority over the heads of the Regional directorates as a *Départemental* Prefect over the heads of the *Départemental* directorates. His role is to coordinate and provide impetus and he is the person who allocates State funding between the *Départemental* Prefects in his Region.

He gathers information and prepares proposals he considers will be useful in framing national policy, and sends them to ministers. He must take any initiative conducive to furthering the economic and social development of his Region within the general context of the government's town and country planning policy. He ensures the coordination required to implement national policies.

With the latest reform of the deconcentration of 2010, the role of the Prefect of Region has been strengthened: since the Regional level is the usual level for nationwide State policies, the power of the regional Prefects has grown compared to the local Prefects. The Regional directions of the ministries' services have also been reinforced. The Regional Prefect now has a pivotal role in the enforcement of most national policies except in the matters of safety and security, which are still managed at *de Départements'* level.

5.7. The changes in the relationship between the State and local government

Logically, each tier of government (State, Region, *Département*, Intercommunality and Commune) should finance operations in its own areas of competence with its own resources from its own taxes.

This is not the case because, while the State does not finance activities outside its own remit, it requires local authorities to help fund some of the central government's projects, especially in the context of the "*contrats de plan Etat-régions*" (Contract between the State and the decentralized authorities²). For example, local authorities who were very keen to develop their local road networks have paid a significant percentage of the cost of some main, nationwide roads. They have also contributed to the building of university and research premises under some national plan even though the State is solely responsible for higher education.

Financial constraints have led the State to increasingly seek top-up funding in order to carry out its own projects. But this has contributed to rises in local taxation and these forms of cross financing can lead to confusion about responsibilities. Both at Regional and *Départemental* level, the task of the Prefect, the representative of the State, is consequently rendered more complicated because he finds himself forced to ask for funding for State-run projects from many partners. Limiting such cross financing should be a major item in future reforms of the State organization.

People might wonder about the relationship between a Prefect who represents central government and locally elected representatives who are not of the same political persuasion. Generally speaking, this does not prevent them from working together. The locally elected representatives know that the Prefect represents a government chosen by universal suffrage and, similarly, the State representative is aware that, even if they do not belong to the same political party as the government, the local representatives have also been elected through universal suffrage and must be able to take decisions freely under the powers entrusted to them by the law and the constitution. It is on this basis of mutual recognition that the 1982 reforms on decentralization and "deconcentration" have become a reality and operate satisfactorily,

²*Contrats de plan*, drawn up at Regional level, lay down the major economic and social priorities for the Region and set out the relevant action programs, which the plan's signatories (State, Regional authorities) are committed to finance.

6. The indispensable control of the use of public money in the French Decentralization

6.1. The fight against corruption of the decentralized officials and civil servants

The first tools are the transparency and open data policies: every decision made by the local authorities has to be public and therefore they are now usually published online on their websites.

We can see transparency developing for high ranking civil servants and also members of the local executive with:

- Mandatory Statement on their other commitments (professional or personal);
- Mandatory declaration on the assets on the beginning and at the end of their office;
- Both those declarations are (very) partially public, and it is illegal to publish asset declarations.

Those declarations have been set after some corruption scandals, and have helped to improve the accountability of politicians and higher civil servants.

One other important point is about the people who are enforcing the decision of the local politician. If they are civil servants with a good education background, a sufficient salary and a job protection they will be more prone to say no to corruption or illegal instructions.

6.2. More democracy in the use of public money

First, transparency and open data policies regarding all the documents about budgets and accounts of the decentralized authorities help citizens to know the real situation. More and more decentralized authorities have a more pedagogical approach in order to inform the citizens of the use of public money through online or paper publications.

Two other instruments of participation have been increasingly used in local governance, namely municipal Councils and participatory budgeting

Some decentralized authorities are using those tools. For example, the Region Poitou-Charentes has use both methods:

- Councils of local citizen giving advices and observations on the policies implemented by the Region
- Participatory Budget in high schools financed by the Region in order to educate the youth to the democratic life. Participatory democracy is also used for the management inside the Regional administration in case major changes with the selection of a pool of civil servants giving advices to the President and the top management of the Region.

Those tools are also sometimes use on a more local level for some Communes on a voluntary base.

6.3. The legal fight against misuse of public money and the Regional court of account

There is various systems for controlling and managing the local decentralized administration on 3 keys points:

- Accounting control
- Budgetary control
- Management control

For the accounting control, there is in France a principle of separation of authorizing officers and accountants: the decentralized administration can't use any money directly. The money is on an account managed by the ministry of finance. When the decentralized administration want to spend money, it has to prove that it can legally pay (bills, official's acts) and the ministry of finance officer makes the credit transfer only after the proper controls.

As already mentioned, most of the decisions, especially the one regarding the budget, are controlled by the "Prefect" in order to check the legal correctness (quality of documents, respects of the legal deadlines, respect of some basic budgetary rules, and respect of the different signatures rights...).

Some people in France protest against this limitation of the autonomy of the decentralized authorities but this control is also considered useful by having the central State as a "watchdog" to avoid a degradation of quality of the local administrations.

Another system to have a proper budgetary control are the French Regional and Territorial Chambers of Accounts (RTCAs) system. They are independent courts that rule on the accounts of public accountants, examine management and audit the budget operations of decentralized authorities and their public institutions. Since 1982, the rules of RTCAs have been amended and adjusted by a significant amount of legislation aimed at extending their competence and strengthening their proceedings.

- **Court review:** The fundamental duty of financial courts is to judge the accounts of public accountants to ensure compliance with the rules of performance for income and expenditure and the principle of separation of authorizing officers and accountants. The RTCAs hands down legal rulings (verdicts or orders) on the accounts presented to them. Accountants may be held personally and financially liable by the Regional court in a number of instances:
 - If a deficit or missing funds have been noted;
 - If income has not been recovered;
 - If an expense has been improperly paid;
 - If the public body has had to compensate a third party because of the public accountant
- **Management review:** the RTCAs review the management of Regional authorities and bodies within their remit (attribution) (article L. 211-8 of the Financial Courts Code). Audits are undertaken either on the initiative of the CRC as part of its annual audit program, or at the request of the local authority of the Prefect. They examine each of the following aspects, in order:
 - Correctness, i.e. compliance with the law on expenditure and public contributions.
 - Economical use of public funds.
 - Effective use of public funds.

- **Auditing of budget transactions:** The Prefect may refer the budgetary situation of a local authority or public institution to the Court. The Court provides its expertise as an independent authority and expresses opinions.
- **“*Cour des comptes*” – RTCAs joint investigations:** The RTCAs often work with the “*Cour des comptes*” (the French national court of audit). They take part in thematic investigations on a very wide variety of subjects. Usually, this work leads to the publication of public thematic reports.

Every document regarding this system has to be online in order to let the local communities to know the result of the audits on a principle of Transparency and Open data.

7. Conclusion

The French experience of decentralization is distinct in various aspects from other models of decentralization. The French decentralization appeared quite recently, in a country with a very long history of State centralization. The French State appeared before the French nation on the opposite of, for instance, the decentralization's history of Germany or Italy. Unlike the cases of Spain or the UK, the French decentralization is almost free of any pressure from populations with a strong cultural identity, fighting for more autonomy. Unlike the case of most eastern European countries like Poland, the French decentralization came independently from the pressure of the European Union: The French decentralization came from the will of the central power to delegate more responsibility in a logic of democratic improvement and of better sharing of the wealth between every parts of the country.

Of course, the French experience of decentralization is not free from criticism. The multilayer structure is often considered to be too expensive and not efficient enough to answer the economic and social challenges, but there is a trend toward the fusion of structures, which should help to improve the situation. The slow decrease of the State-funded grants and allowance is putting a lot of pressure on the decentralized authorities to improve their internal processes.

Like in every European countries, there is a slow decrease of public participation to local elections and a tendency to vote for far right and populist political parties. This can be explained by the fact that the evermore mobile population of the European countries feel less concerned by the local (except on the Commune level) than the national and global issues. The evolution of a society in motion is shaping the European countries, and France in particular, and the big challenges of the coming times for the French experience of decentralization will be to reinforce public participation in elections and in the decision-making process.

The French experience of decentralization can be interesting for developing or emerging countries:

- The slow evolution makes it easier to imitate.
- The role of the Prefect kept a possibility of central oversight of the local political evolutions.
- The Regional court of accounts and the various budgetary limits and regulations provide limitations to the financial risks for the whole country.
- By preserving the power and the oversight of the central State, on the opposite of the more developed systems of federations, the French model of decentralization can insure a great stability and a more sustainable and safer path for democratization at the local level.

About the Authors:

The report has been coordinated for the French Territorial Administrators Association (AATF), by:

Jean-Louis Rocheron is territorial administrator, He is Deputy Finance director in the Region Aquitaine-Limousin-Poitou-Charentes in Poitiers, France. He is lecturer in public finances at the University of Poitiers. He is also working as decentralization expert with the French embassy in Jordan and with the Al Hayat center in the Kingdom of Jordan.

With the precious help of:

John Houldsworth is territorial administrator, He is Deputy Director of the Departmental House for Disabled and Handicapped People for the Departmental Council of Seine-Saint-Denis in Bobigny, near Paris, France.

Paul-Marie Atger is territorial administrator, He is Deputy Director for Professional education in the Region Ile-de-France in Paris, France.

Alexandre El Bakir is territorial administrator, He is head of the Department for Professional education and high school in the Region Aquitaine-Limousin-Poitou-Charentes in Poitiers, France. He is lecturer in social policies at the University of Poitiers.

Etienne Longueville is territorial administrator, He is director for the territorial strategy, forward planning and coordination in the Intercommunality (*Commnauté d'Agglomération*) of Saint-Brieuc, France.

Disclaimer:

The content of this report does not reflect the official opinion of the French Government or any of his decentralized local authority. Responsibility for the information and views expressed in the report lies entirely with the authors.

Date of publication: January 2016

For further information about the French experience of decentralization, please contact the authors directly: rocheronjl@gmail.com

For further information about the French Territorial Administrators Association (AATF), please contact directly contact.aatf@gmail.com or on the website <http://www.administrateurs-territoriaux.asso.fr/>

Appendix

The French Constitution of 1958

Articles on decentralization

Article 72

The territorial communities of the Republic shall be the Communes, the *Départements*, the Regions, the Special-Status communities and the Overseas Territorial communities to which article 74 applies. Any other territorial community created, if need be, to replace one or more communities provided for by this paragraph shall be created by statute.

Territorial communities may take decisions in all matters arising under powers that can best be exercised at their level.

In the conditions provided for by statute, these communities shall be self-governing through elected Councils and shall have power to make regulations for matters coming within their jurisdiction.

In the manner provided for by an Institutional Act, except where the essential conditions for the exercise of public freedoms or of a right guaranteed by the Constitution are affected, territorial communities or associations thereof may, where provision is made by statute or regulation, as the case may be, derogate on an experimental basis for limited purposes and duration from provisions laid down by statute or regulation governing the exercise of their powers.

No territorial community may exercise authority over another. However, where the exercising of a power requires the combined action of several territorial communities, one of those communities or one of their associations may be authorized by statute to organize such combined action.

In the territorial communities of the Republic, the State representative, representing each of the Members of the Government, shall be responsible for national interests, administrative supervision and compliance with the law.

Article 72-1

The conditions in which voters in each territorial community may use their right of petition to ask for a matter within the powers of the community to be entered on the agenda of its Deliberative Assembly shall be determined by statute.

In the conditions determined by an Institutional Act, draft decisions or acts within the powers of a territorial community may, on the initiative of the latter, be submitted for a decision by voters of said community by means of a referendum

When the creation of a special-status territorial community or modification of its organization are contemplated, a decision may be taken by statute to consult the voters registered in the relevant communities. Voters may also be consulted on changes to the boundaries of territorial communities in the conditions determined by statute.

Article 72-2.

Territorial communities shall enjoy revenue of which they may dispose freely in the conditions determined by statute.

They may receive all or part of the proceeds of taxes of all kinds. They may be authorized by statute to determine the basis of assessment and the rates thereof, within the limits set by such statutes.

Tax revenue and other own revenue of territorial communities shall, for each category of territorial community, represent a decisive share of their revenue. The conditions for the implementation of this rule shall be determined by an Institutional Act.

Whenever powers are transferred between central government and the territorial communities, revenue equivalent to that given over to the exercise of those powers shall also be transferred. Whenever the effect of newly created or extended powers is to increase the expenditure to be borne by territorial communities, revenue as determined by statute shall be allocated to said communities.

Equalization mechanisms intended to promote equality between territorial communities shall be provided for by statute.