

# UCLG COUNTRY PROFILES

## French Republic

(*République française*)

**Capital:** Paris

**Inhabitants:** 64.473.140 (2008)

**Area:** 674.843 km<sup>2</sup>

### 1. Introduction



France, the largest of the European Union member States, covers an area of 551,000 km<sup>2</sup>. On 1 January 2007, the population of France and its four overseas regions (*départements d'outre-mer* – DOM) was estimated at 62.9 million, 1.7 million of which live in the DOM. The population of other overseas authorities is less than 500,000 inhabitants.

According to Article 1 of its Constitution of 4 October 1958, France is “an indivisible, secular, democratic and social Republic (...). It has decentralised organisation”. The French political regime is characterised by the predominant position of the President of the Republic, who is elected by universal direct suffrage for a 5-year term, but also by Parliament, to a certain extent.

Although France is known for its tradition of centralisation, decentralisation has its roots in the political ideas put in place by the French Revolution, and has developed as a notion over the course of time. Three important periods can be observed: the Third Republic (1875-1940), which formed the basis of the local institutions in place today; the Fourth and Fifth Republics, up until the end of the 1970s, characterised by technocratic centralisation linked to reconstructing and modernising the country; and the decentralisation reforms since 1981, which have transformed France into a decentralised unitary State.

### 2. Territorial structure

The foundations of local-level organisation were put in place by the French Revolution. Under the Laws of 14 and 22 December 1789, the National Constituent Assembly set out the administration of communes and departments (sub-provinces). Each town and parish was established as a municipality – or 44,000 communes; and France as a whole was divided into 83 departments. Napoleon Bonaparte reduced the number of communes to 38,000 by getting rid of communes with less than 300 inhabitants. Although departments are seen as local authorities, they were conceived as frameworks for “internal



administration", and were subordinate to the executive power. From the moment they were introduced in 1800 up until 1982, prefects, who are appointed by central authorities, remained the executive body in each department. Regions came about during the 1950s as part of the State's economic administration. The implementation of regional prefects in 1964 marked the beginning of regional institutions. The draft bill that was submitted and then turned down in the April 1969 referendum provided for regions to become local authorities with extensive responsibilities and powers, but with the prefect still as the executive body. Regions only became local authorities in 1986.

Local-level organisation today is characterised by three levels of local authorities, which also correspond to the State's administrative constituencies: communes, departments and regions. The City of Paris and the island of Corsica were

granted special status. Paris is both a commune and a department, and the police prefect has the majority of powers held by the police force. Corsica differs from the regions in terms of its institutions and its responsibilities and powers. The law can create other local authorities where necessary, instead and in place of existing authorities. All local authorities have the same legal status and none of them can exert trusteeship powers over another. However, the law can authorise one or a group of authorities to organise their own collective activities (Art. 72).

Communes have long had the option of cooperative action to develop their public services (for example: water distribution, treating household waste...). Since the end of the 1950s, this has also been seen as a way of carrying out local-level reform, which had become indispensable, but had also come up against overwhelming political opposition. The creation of the first

Table 1: Territorial Organization in France

Type of local authority	Number (2008)	of units	Expenditures (billion €)	2006 Expenditure (€/ inh.)
<b>Regions</b>	21 + Corsica 4 overseas		21.7	345.0
<b>Departments</b>	96 4 overseas		58	922.1
<b>Communes</b>	36,683 (of which 874 ≥10,000 inh.)		85.4	1357.7
	2,583 (91.7% of communes ; 86.8% of the population)	30		549.4 (compared to the population as a whole)
<b>Intermunicipal areas with their own finances :</b>				
- Urban communities	14			
- Agglomeration communities	171			
- Commune communities	2,393			
- New agglomeration unions	5			

Source: Ministry of the Interior, DGCL, Observatory of Local Finances, and the author's own calculations



“urban communities” by the Law of 31 December 1966 was the first successful policy of this kind. Since the Law of 12 July 1999, which has been known since as the “intermunicipality” law, there has been expansion of the commune framework adapted to contemporary society.

Today the intermunicipal system relates to three main institutions granted responsibilities and powers, and whose funding is separate from that of its member communes – even though other forms of cooperation continue to exist:

- Urban communities: for communes which form an agglomeration all in one block and which have no enclave areas of more than 500,000 inhabitants.
- Agglomeration communities: for communes which form an agglomeration all in one block and which have no enclave areas of more than 500,000 inhabitants and include at least one central town with more than 15,000 inhabitants.
- Commune communities: groups various communes together in one block and with no enclave areas.

In 2005, local public authority expenditure was equal to 48.3% of State expenditure and to 11% of the GDP; they secured nearly 70% of the gross fixed capital formation for public administrations.

### 3. Local democracy

#### 3.1 The local political system

Assemblies are elected by direct vote, but the local executive body is elected by the assembly. Intermunicipal council members are elected by the municipal councils of member communes, however.

On the whole, municipal councils are elected in one single constituency, by

means of a vote by list ballot in two rounds: the list receiving the majority of the votes cast (the absolute majority in the first round) takes the majority of seats and a proportion of the remaining seats, which are distributed proportionally between all lists.

The general council is elected by uninominal majority vote in two rounds. The regional council is elected in a vote by list ballot in two rounds. Each list has a section for each department in the region. The list which receives the majority of votes cast (the absolute majority in the first round) takes a quarter of the seats. The remaining seats are shared out proportionally between the lists. The seats allocated are shared out between departmental sections by prorating the votes obtained by the list in the department.

All local mandates are for a six-year period and can be renewed. However, the general councils can be renewed at mid-term every six years. The president of the general council is therefore elected for three years.

Executive power is granted entirely to one person: the mayor (commune) or the president (others), who is also the president of the deliberative assembly. The deputies (the vice-presidents) are also elected by the deliberative assembly, but the extent of their duties depends exclusively on what the mayor (president) delegates to them, and these duties can be revoked. Councils do not have the power to terminate the mandate before the end of their term.

It is estimated that two-thirds of the electorate is determined primarily according to local criteria. However, the political parties control candidacy during elections, apart from in small communes, even if they may be won by independent or “dissident” candidates.



Following legislation on parity, 47.5% of municipal councillors in 2001 were women, but only 11% were mayors.

French political practice is characterised by an overlap in offices. The law limited this practice in both 1985 and 2000. Members of Parliament can only have one local mandate. They can, however, be a municipal councillor or mayor of a commune with a maximum of 3,500 inhabitants. In addition, it is not permitted to have more than two local mandates, and the duties held by mayors, or general or regional council presidents, are strictly incompatible. Overlap in intermunicipal offices is not regulated, nor is it for other large local public establishments (for example, local social housing bodies). At the end of 2007, of the 577 deputies, there were 380 mayors, 142 general councillors and 67 regional councillors; of the 331 senators, there were 120 mayors, 112 general councillors and 24 regional councillors (*Le Monde*, 12 August 2007).

### 3.2 Civic participation

In France, local democracy is generally representative. However, turnout rates for local elections have been in decline. Since 1983, we have seen a regular increase in non-participation. This can be seen in these first rounds of municipal elections: 27.2% in 1989, 30.6% in 1995, 32.6% in 2001 and 33.5% in 2008.

Referendum was introduced by means of a constitutional amendment in 2003 (Art. 72-1). A local authority can submit acts relating to its responsibilities and powers to the decision of voters by referendum. There are certain restrictions on the dates of referendums (on the same day as the elections, for example). An act is adopted if at least half of the voters have participated in the ballot and if they receive the majority of the votes (Organic Law of 1 August 2003).

The law also allows for consultation with voters on decisions that local authorities intend to take. In this instance, a fifth of voters can take the initiative by asking the council to organise a consultation meeting on this decision. Authorities are not bound by the decision.

No decisional referendums appear to have taken place since 2003. A certain number of consultation meetings have been organised; these were contentious as they related to areas that did not come under the responsibilities and powers of the local authority.

The law provides for other forms of civic participation in local decision-making. Three cities are divided into urban subdivisions with their own elected councils (Paris, Lyon, Marseille). Neighbourhood councils were put in place in communes of at least 80,000 inhabitants; the municipal council decides how they are structured (generally: municipal council members, representatives from organisations) and their operating methods. They can be consulted by the mayor and can take the initiative on proposals. Neighbourhood councils are optional in communes of fewer than 20,000 inhabitants. Neighbourhood deputies, who are appointed by the mayor, ensure that inhabitants are provided with information and encouraged to participate in local life. Municipal councils can create consultative committees on all issues relating to the commune.

In addition, regions, departments, communes with more than 10,000 inhabitants, public establishments for intermunicipal cooperation of more than 50,000 inhabitants and the largest joint unions must put a consultative commission in place for all public services which give rise to public service delegations or are carried out under direct management of the State and granted with financial autonomy. This commission, chaired by the



mayor or the president, examines annual reports from operators, reports on the price and quality of certain public services (water, drainage, household waste); it is consulted prior to all decisions relating to public service delegations or to public corporations granted financial autonomy. The commission is made up of council members based on proportional representation and representatives from local organisations.

The specific procedures for consultation and dialogue are also set out in the urban planning code and the environment code for certain projects. Other processes can be freely introduced by the local authorities, so long as they observe those set out by the law.

#### 4. Relations between central and local authorities

##### 4.1 General issues

The constitutional status of local authorities is defined by the principle of free administration, which corresponds to the notion of local autonomy in the European Charter of Local Self-Government. The Republic's principle of indivisibility sets the limits of decentralisation: it excludes local authorities from exercising legislative powers. The Constitutional Council oversees the balance between these two principles. The State representative is in charge of "issues of national interest, administrative control and ensuring the law is observed" (Art. 72, final Paragraph).

The law sets out the fundamental principles of free administration for local authorities relating to their responsibilities and powers and their resources, as well regulations relating to the electoral structure for local assemblies (Art. 34). Draft bills which mainly relate to local authority organisation are presented in the first instance to the Senate (Art. 39), which

ensures that "local authorities are represented" (Art. 24). Local authorities cannot refer to the Constitutional Council themselves, but Members of Parliament can, and the vast majority of them are locally elected representatives.

##### 4.2 Local authority control

We must distinguish between legal control, budgetary and financial control, and the trusteeship held over local bodies. It is always *a posteriori* control. Legal control is granted to the adjudicator and can be released by the prefect, to whom the most important acts adopted by local authorities are communicated. However, these acts become operational once they have been communicated.

If local authorities are advised of illegal acts and do not rectify them, the prefect requests that they be cancelled at the administrative tribunal. These specific stipulations strengthen control of public markets and contracts of public service delegation, as well as urban planning issues, national defence and the protection of liberties. This control is exercised in a measured way and is rarely referred to a judge. The Law of 13 August 2004 reduced the list of acts that must be submitted – the number fell from 8.3 million in 2004 to 6.3 in 2006. The number of appeals remains at around 1,400 per year, but 80% of the acts which were contained in a letter of observation by the prefect were removed or reformed before the judge's decision was taken.

The regional courts of accounts are granted control of the budget, accounts and management of local authorities and their public establishments. Their control also extends to how the grants they allocate are used. They are independent magistrates. As part of their budgetary control, the court is referred to by the prefect (or by the beneficiary of mandatory expenditure)



in the instances defined by the law, and formulates proposals. If the local authority does not follow them, the budget in question is regulated by the prefect, who is not, however, held by the terms of the court's proposals. The prefect also has the power to automatically mandate compulsory expenditure in place of the local authority if it refuses to do so. Management control takes the form of checks. The court has free control over the object and the target of these checks, and they result in observations addressed to local authorities. Finally, the court acts as the audit judge for local authority public accounting.

An indirect consequence of the move towards decentralisation is that certain technical control mechanisms set out in the law now relate to newly established local authorities: this is the case in terms of libraries and museums submitted to State technical control, educational establishments, or national regulatory bodies if local authorities are involved in activities in these sectors (telecommunications, energy).

Finally, control over these local bodies takes the form of the possibility for the government to decide to disband a local assembly by decree at the Council of Ministers, in cases where it is no longer possible to operate (there are many cases per year for municipal councils). The dissolution decree can be appealed by *ultra vires* action. The law also allows for the suspension or removal of a mayor on serious grounds (in practice, this relates to penal infractions incompatible with maintaining operations).

#### 4.3 Protecting the rights and interests of local authorities

Local authorities have the right to go to court. The overlap in mandates gives support to the defence of local authorities'

interests in Parliament.

There are many associations of locally elected representatives, the largest of which are the French Mayors Association, the Association of the Departments of France, the Association of the Regions of France, the Association of the Communities of France (representing intermunicipalities), and many more specific associations: large towns, small towns, mountain communes, etc...

## 5. Responsibilities and powers

### 5.1 General issues

All local authorities benefit from the general clause on responsibilities and powers. This relates to the notion of freedom, and not to the principle of distributing responsibilities and powers. In practice, the majority of responsibilities and powers that are materially practiced by local authorities have a legislative foundation. The general clause on responsibilities and powers cannot be applied to intermunicipalities, which are public establishments that fall under the principle of specialisation. The main area where this is applied relates to creating local public services, provided that they do not detract from freedom of business and industry.

In addition, local authorities and their public establishments in general have free choice over the way they manage their public services. If they decide to entrust them to private companies, they have wide-ranging contractual freedom with regard to respecting regulations on competition and the structured established by the law (public service delegations, public markets, public-private partnership contracts). They can set up mixed economy businesses.

Local authorities generally have



autonomous responsibilities and powers. However, the mayor, as a representative of the State, is in charge of the civil registry, organising elections and issuing legal documents in certain towns (identity cards, passports). There are various other delegated responsibilities and powers.

In carrying out their responsibilities and powers, local authorities have regulatory power. The 2003 constitutional amendment was related to this power, but did not create it. It is carried out by the deliberative assembly, subject to the powers held by the mayor or the president.

The 2003 constitutional amendment allowed the legislature to authorise local authorities to derogate, in exceptional circumstances and for a limited period, from the legislative and regulatory stipulations that govern how responsibilities and powers are carried out, apart from when it relates to the essential conditions for exercising public freedom or a constitutionally guaranteed right (Art. 72, Para. 4, and Organic Law of 1 August 2003). There has only been one instance where this has been applied, which was the case of "active solidarity revenue", by 41 departments, since autumn 2007. On the other hand, on the basis of Article 37-1, many experimental stipulations have been introduced by a law or regulation; local authorities are involved in their application but cannot derogate from the national norms.

### *5.2 The main material responsibilities and powers*

Here we are only making reference to autonomous responsibilities and powers. They were established by the 1982–1983 and 2003–2004 reforms. The main responsibilities and powers of communes are:

- cemeteries and public mortician services
- water and drainage

- collection and treatment of household waste
- communal road systems and public lighting
- public urban transport
- local gas and electricity distribution networks
- urban planning: planning, approving construction and demolition contracts, territorial development (for residential or economic purposes) based on territorial development conventions
- social housing buildings and entities
- general police and various specialist police authorities
- developing and managing sports, cultural and leisure facilities; supporting cultural, sporting and leisure events
- social support and social institutions, by means of municipal social action centres managed by the department
- support for economic development to complement measures adopted by the region

Responsibilities and powers relating to road systems and urban transport (apart from construction permits and the local urban planning scheme in general), buildings and lodgings, household waste, and economic development, cultural, sports and leisure facilities are now generally carried out by intermunicipalities, or by commune organisations or mixed organisations.

The main responsibilities and powers at the departmental level relate to social activities and allocation services (income support allocation, personal pension allocations, incapacity benefit) (46% of total expenditure). Next we have infrastructure (roads) and public transport (non-urban road passenger transport and school transport) (16.7%), and expenditure relating to educational establishments (secondary schools: premises and operations) (8.3%).





The main responsibilities and powers for regions relate to professional training and apprenticeship (more than 20% of total expenditure), education (secondary schools: school premises and operations; support to higher education – 21.5%), transport (regional passenger rail links: 25%); economic activities are estimated at around 8%.

All these duties are carried out freely by local authorities and subject to the control mechanisms described above. However, carrying out these duties often assumes agreements with the State or other local authorities for financial or regulatory reasons. This is why the number of contracts between public authorities has multiplied, in order to coordinate activities and distribute finances. Project contracts between the State and regions, and/or other local authorities, are the most important form of financial commitments in question. In 2006, they succeeded the contracts on State-regional plans, but the system is identical.

## 6. Finance and local management

### 6.1 Local finance

The 2003 constitutional amendment dedicated the principle of financial autonomy for local authorities to one specific issue (Art. 72-2, Para. 4): all transfers of responsibilities and powers to be accompanied by allocating resources equivalent to those previously allocated to them, and any addition or extension of responsibilities and powers must lead to increased expenditure for local authorities and be accompanied by resources set out by the law.

On the other hand, the amendment authorises a reduction in their financial powers because it includes involvement in the revenue of shared taxes in the definition of their own resources. This

should represent a “determining factor” of all resources, which translates to the duty to maintain this part at least at the 2003 level (Organic Law and decision of the Constitutional Council on 29 July 2004).

On this basis, the financial autonomy ratio calculated by the Observatory of Local Finances (autonomous resources to total resources) was 61.2% in 2005 for communes and intermunicipalities, 66.4% for departments and 44.1% for regions.

Autonomous financial resources are characterised by the power to act on the tax product, particularly by voting on their rates. There is direct finance and indirect finance. Direct finance relies on four taxes: tax on landed property that is built on or not built on, council tax (paid by the resident of the building) and business tax (paid by all persons carrying out non-salaried or non-agricultural activities). Communes (apart from those forming part of an intermunicipal area, which set their own unique business tax) and departments receive payment for these four taxes; regions only receive land tax and business tax. In addition, communes or commune groups receive the tax on household waste removal and payments transferred for public transport (Ile-de-France and communes or groups of communes with more than 10,000 inhabitants who put this in place). Globally, direct finance represents 83.3% of own resources, and this is 43.2% of total resources.

According to the Law of 13 August 2004, transfers of responsibilities and powers are generally compensated for by allocating taxations of all types. What was different from the changes of 1982–1983 was that this time they opted for participation in national tax revenue: inland duties on petroleum product consumption (TIPP: departments, regions) and since 2007 the special tax on insurance conventions (TSCA: departments). Regions can adapt





the tariff based on the regional base of the tax. This participation represented 10.6% of revenue for departments and 15% of revenue for regions in 2007.

State services calculate and guarantee collection of the tax on behalf of local authorities. The public treasury transfers the chosen product, makes the advance and takes care of uncollected taxes, and in exchange, deducts a percentage of the money recovered. This guarantee covers the shortfall in earnings resulting from the many streamlining measures or reductions decided by the State for economic and social policy reasons. In 2006, State contributions represented 26.9% of local financial revenue, 40% for the sole business tax. All taxation occurs in this way; as though local authorities were taxing the State.

Financial assistance from the State to local authorities reached 50 billion euros in 2006, 38.1 billion of which represents the State's contribution to local authority operations (*dotation globale de fonctionnement* – DGF). Around 90% of this State financial support can be used freely. Around 15% of the DGF ensures that balancing out occurs at the national level; other mechanisms for balancing out exist at the departmental and local levels. They are free to take out loans, but if it is a foreign loan or is obtained by means of public subscription, it must be submitted for authorisation.

## 6.2 Staff

Transferring responsibilities and powers involves transferring personnel: at last count 95,000 administrative and technical workers in national education had been transferred from departments to regions, and nearly 30,000 employees from the Ministry of Equipment had been transferred to departments.

Before these measures had fully come into

effect, the workforce employed by local authorities and their public establishments had already reached 1.8 million in 2005, which is nearly as many as the State's civil administrations.

Most of these workers (around 75%) are civil servants. The 1982–1983 reform was accompanied by the implementation of a local-level civil service (Law of 26 January 1984), which incorporated workers from all local authorities and their public establishments in areas of work regulated by national statutes.

## VII. Conclusion

It was not that long ago that France was a model unitary centralised state. In 25 years it has become one of the most decentralised states in Europe outside of the Nordic countries and Switzerland. This transformation has been accompanied by a reform of State administration itself.

There are still many questions to be answered:

- Should regions and departments be maintained, or should one of the two be removed? But the real issue is proceeding with territorial reform in the form of intermunicipalities.
- Should the general clause on responsibilities and powers be maintained? The entangled nature of responsibilities and powers has been attributed to this. It is possible that it could be removed in departments and regions.
- Status of locally elected representatives: this issue is linked to the overlap in mandates. If new restrictions were brought in, it is unlikely that they would be completely forbidden.

**Prof. G. Marcou**

University Paris 1 Panthéon-Sorbonne