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**Structure and operation  
of local and regional  
democracy**

France



# **Structure and operation of local and regional democracy**

## **France**

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## **1. LEGAL FRAMEWORK**

### **1.1. Constitutional provisions**

According to Article 72 of the Constitution, the territorial authorities of the French Republic are the following: the communes, the *départements* and the overseas territories. Any others shall be created by law. These authorities shall govern themselves freely through elected councils on the conditions laid down by the law.

Article 74 of the French Constitution states that the overseas territories of the Republic shall have a specific organisation taking account of their own interests within the overall interests of the Republic. In accordance with Article 34 of the Constitution, the rules concerning the electoral system of the local assemblies shall be established by law. The law shall also determine the fundamental principles of free administration by local authorities, the extent of their jurisdiction and their resources.

### **1.2. Main legislative texts concerning local and regional authorities**

The legislative provisions governing the communes are codified in a municipal code (*code des communes*). They have emerged from successive acts introduced since 1884 recently modified for intermunicipal co-operation by the law of 6 February 1992.

The legislative provisions governing the *départements* come for the most part from the Act of 10 August 1871, the Act of 2 March 1982 and the Acts on the transfer of powers (7 January 1983, 22 July 1983 and 10 June 1985).

For the regions, the essential references are the Act of 5 July 1972, the Act of 2 March 1982 and the Acts on the transfer of powers (7 January 1983, 22 July 1983 and 24 February 1984).

## 2. STRUCTURE OF LOCAL AND REGIONAL AUTHORITIES

### 2.1. Principal subdivisions

The principal territorial subdivisions for local self-government are: communes, *départements*, regions and public co-operation establishments.

### 2.2. Statistics

#### Local authorities in 1990<sup>a</sup>

<b>Communes</b>	<b>36 763</b>
Metropolitan France <sup>b</sup>	36 551
DOM (overseas <i>départements</i> )	113
TOM (overseas territories)	80
Special status	19
<b>Départements</b>	<b>100</b>
Metropolitan France	96
DOM	4
<b>Regions</b>	<b>26</b>
Metropolitan France	22
DOM	4
<b>Overseas territories<sup>c</sup></b>	<b>4</b>
<b>Authorities with a special status<sup>d</sup></b>	<b>2</b>

a General population census of March-April 1990 for metropolitan France, the four overseas *départements* and Saint-Pierre-et-Miquelon, and of 9 October 1990 for Wallis and Futuna.

b 36 560 communes as of 1 January 1992.

c New Caledonia, French Polynesia, Wallis and Futuna, French Southern Ocean and antarctic territories.

d Mayotte, Saint-Pierre-et-Miquelon.

#### Groupings of local authorities

<b>Urban communities</b>	<b>9</b>
<b>Districts</b>	<b>322</b>
<b>Consortia</b>	<b>17 895</b>
Single-function consortia	14 490
Multiple-function consortia	2 298
Mixed consortia (as of 1.1.88)	1 107
New town consortia	9

At 31 December 1994, 756 communities of communes and four communities of towns had been created in fifty-six *départements*.

**Population and area of the regions in 1990**

	<b>POPULATION</b>	<b>AREA (sq. km)</b>
<b>METROPOLITAN FRANCE</b>		
<b>ÎLE-DE-FRANCE</b>	10 660 554	12 012
<b>CHAMPAGNE-ARDENNE</b>	1 347 848	25 606
<b>PICARDY</b>	1 810 687	19 399
<b>UPPER NORMANDY</b>	1 737 247	12 307
<b>CENTRE</b>	2 371 036	39 151
<b>LOWER NORMANDY</b>	1 391 318	17 589
<b>BURGUNDY</b>	1 609 653	31 582
<b>NORD-PAS-DE-CALAIS</b>	3 965 058	12 414
<b>LORRAINE</b>	2 305 726	23 547
<b>ALSACE</b>	1 624 372	8 280
<b>FRANCHE-COMTE</b>	1 097 276	16 202
<b>LOIRE VALLEY</b>	3 059 112	32 082
<b>BRITTANY</b>	2 795 638	27 208
<b>POITOU-CHARENTE</b>	1 595 081	25 810
<b>AQUITAINE</b>	2 795 830	41 308
<b>MIDI-PYRENEES</b>	2 430 663	45 348
<b>LIMOUSIN</b>	722 850	16 942
<b>RHONE-ALPES</b>	5 350 701	43 698
<b>AUVERGNE</b>	1 321 214	26 013
<b>LANGUEDOC-ROUSSILLON</b>	2 144 985	27 376
<b>PROVENCE-ALPES- COTE-D'AZUR</b>	4 257 907	31 400
<b>CORSICA</b>	249 737	8 680
<b>AVERAGE</b>	2 573 386	24 726
<b>DOM</b>		
<b>GUADELOUPE</b>	386 987	1 780
<b>MARTINIQUE</b>	359 572	1 100
<b>GUYANA</b>	114 678	90 000
<b>REUNION</b>	597 823	2 510
<b>AVERAGE</b>	364 765	23 847

### Population and area of the *départements*

	Area (km <sup>2</sup> )	Population
Maximum	10 000	2 531 855
Minimum	176	72 825
Average	5 666	589 734

### Number and population of the communes\*

METROPOLITAN FRANCE*				
	Number of communes	% communes	Population	% population
Under 1 000 inhabitants	28 183	77.1	9 337 187	16.2
1 000 to 4 999	6 629	18.1	13 556 546	23.5
5 000 to 9 999	898	2.5	6 168 826	10.7
10 000 to 49 999	738	2.0	15 319 688	26.5
50 000 to 99 999	67	0.2	4 443 077	7.7
Over 100 000	36	0.1	8 859 400	15.4
<b>TOTAL</b>	<b>36 551</b>	<b>100.0</b>	<b>57 684 724</b>	<b>100.0</b>
OVERSEAS DEPARTEMENTS (DOM)*				
	Number of communes	% communes	Population	% population
Under 1 000 inhabitants	9	8.0	4 615	0.3
1 000 to 4 999	34	30.1	96 316	6.6
5 000 to 9 999	27	23.9	186 499	12.7
10 000 to 49 999	38	33.6	763 878	51.9
50 000 to 99 999	3	2.6	194 406	13.2
Over 100 000	2	1.8	224 415	15.3
<b>TOTAL</b>	<b>113</b>	<b>100.0</b>	<b>1 470 129</b>	<b>100.0</b>

\* As of 1 January 1990.

The average population of the communes is 1 578 inhabitants and the average area is 14.9 sq. km.

### 2.3. Modifications of territorial structures

The territorial limits and the names of regions may be modified by the law after consultation with the regional councils and general (*départemental*) councils concerned.

Two or more regions may ask to amalgamate into a single one after all voting to do so. The amalgamation is pronounced by decree.

As regards the *départements*, the order of 2 November 1945 provides that the law can modify the territorial limits of the *départements*. In the case of agreement between all the general councils concerned, this modification is introduced by decree.

Lastly, it is possible to combine several communes into a single one. The modification is pronounced by prefectorial order after all the communes agree or otherwise by decree of the council of state after an opinion by the general council.

The Act of 16 July 1971 provides for a new method of amalgamation, following a local referendum.

There are two types of amalgamation between communes: it may be a case of purely and simply merging, with the disappearance of the former communes, or a grouping of associated communes, which makes it possible to preserve a certain administrative individuality for the former communes (deputy mayor, subsidiary town hall, section of the social assistance centre).

### 2.4. Decentralised field agencies and their relations with the territorial authorities

The decentralised civil administrations of the state (*services déconcentrés*) are organised in the context of three territorial divisions: the regions (twenty-six), the *départements* (100), the *arrondissements* (336).

Regions and *départements* are at the same time both territorial authorities and divisions of the State. The prefect, nominated by the Council of Ministers, represents the central government in the region or the *département*. The *arrondissement* is a subdivision of the *département* administered by a subordinate of the prefect: the sub-prefect.

In his region or *département* the prefect is in charge of the decentralised services of the State (police, agriculture, public works, health, solidarity, environment, employment, etc.).

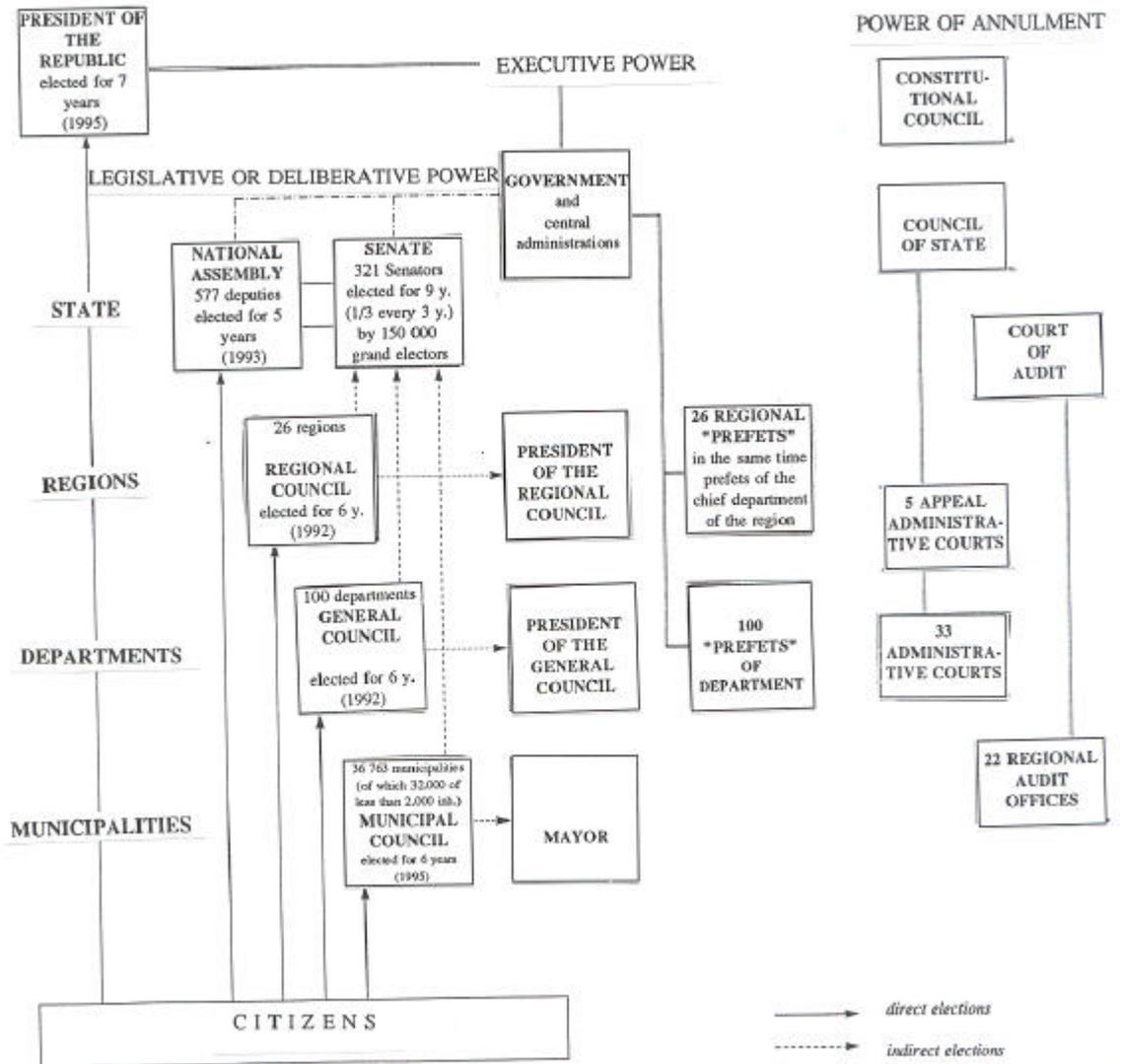
However, services which do not come under the executive (justice) or which have a specific hierarchy (education, factory inspection) are not placed under the authority of the prefect.

The Act of 6 February 1992 on the Territorial Administration of the Republic makes decentralisation the general rule for the allocation of responsibilities and resources among the different levels of the civil administrations of the state. This is the principle of subsidiarity applied to the organisation of the state administrations or services.

Relations between representatives of the state and territorial authorities are governed by the Act of 2 March 1982 on the rights and freedoms of the communes, *départements* and regions. Among other things, prefects and sub-prefects exercise administrative control (control of legality, budgetary control) over the acts of the territorial authorities.

Certain technical services of the state (in particular, agriculture and infrastructure provision) may assist the territorial authorities, more particularly the communes, in the implementation of amenity and infrastructure schemes.

## Political and administrative organisation of France



### **3. ORGANS OF THE DIFFERENT CATEGORIES OF LOCAL AND REGIONAL AUTHORITIES**

#### **3.1. The commune**

##### **a. Deliberating body**

The municipal council governs the affairs of the commune through its deliberations.

It is made up of the mayor, one or more deputy mayors and the municipal councillors.

The number of members on the municipal council varies according to the population of the commune; from nine for communes with fewer than 100 inhabitants, to sixty-nine for communes with 300 000 inhabitants and above.

The number of seats is 163 for the Paris municipal council, seventy-three for Lyon and 101 for Marseilles.

The method of election varies according to the population of the commune.

In communes of fewer than 3 500 inhabitants, the municipal council is elected from a majority list in two rounds.

In the first round, the candidate is elected who has both the majority of the votes cast and a number of votes at least equal to 25% of the number of electors on the roll.

In the second round, the election is by simple majority, regardless of the number of voters. If several candidates obtain the same number of votes, the oldest one is declared the winner.

Declaration of candidature is not compulsory (in other words, a citizen who is not a candidate can be elected).

In communes of fewer than 2 500 inhabitants, single candidatures are authorised.

In communes of 3 500 inhabitants and over, the municipal councillors are elected by list in two rounds. The lists must contain as many candidates as there are seats to be filled; no addition or deletion of names and no modification in the order of presentation of candidates is permitted.

In the first round of voting, the list which has obtained the absolute majority of the votes cast obtains a number of seats equal to half the number of seats to be filled. If no list obtains an absolute majority of the votes cast in the first round, a second round is held. The list which has obtained the greatest number of votes then receives a number of seats equal to half the number of seats to be filled. In both cases, the other seats are distributed among the other lists (including the majority list) by proportional representation according to the biggest average rule.

Lists which receive less than 5% of the votes cast receive no seats.

Seats are allocated to successful candidates in the order in which they appear on each list. If several lists have the same average for the allocation of the last seat, this goes to whichever list obtained the greatest number of votes.

The municipal councils are completely renewed every six years.

#### **b. Executive body**

The executive body of the municipal council is the mayor.

There is no collegial executive body. However, the mayor may delegate part of his functions, under his control and responsibility, to deputies and, in the case of their absence or unavailability, to municipal councillors.

The mayor and deputies are elected by the municipal council by secret ballot and by absolute majority. If after two rounds of voting no candidate has obtained an absolute majority, there is a third round with election by simple majority. In the case of an equal number of votes, the oldest candidate is declared elected.

#### **c. Political head of the commune**

The mayor is the political head of commune. Coming from the majority of the municipal council, he plays a vital role in local political activity.

The mayor is also an agent of the state and as such exercises the following functions:

- he/she is civil registrar;
- he/she is a criminal police officer;
- he/she is responsible for compiling the electoral rolls and organising elections;
- he/she issues documents to individuals, on behalf of the state (national identity card, passport, authorisation certificate to leave the country for minors, documents for foreigners, building permits, hunting licences, legalisation and certification of documents, etc.);
- he is responsible for the census of young men eligible for national service;
- he compiles the list of children subject to compulsory schooling.

As head of the communal administration, the mayor is generally responsible for executing the decisions of the municipal council.

He/she prepares and proposes the budget and authorises expenditure.

He/she conserves and administers the communal properties and manages the income. He controls the communal public establishments and the communal accounts.

He/she represents the commune in legal actions, after being so empowered by the municipal council.

He/she concludes contracts of sale, acquisition, exchange, sharing, acceptance of gifts and legacies, where these contracts have been authorised by the municipal council.

He/she signs agreements, draws up leases for property, awards contracts for municipal work, under the conditions laid down by the municipal council.

In addition, the municipal council may delegate power to the mayor, for the duration of his term of office, to take decisions on its behalf in certain strictly defined fields: allocation of communal properties used by municipal public services; refuse collection charges and other charges for the benefit of the commune which are not of a fiscal nature; loans for investments provided for in the budget, up to the limit set by the municipal council; mutual agreements; renting of things for a period of less than twelve years; insurance contracts; accounting systems; concessions in the cemeteries; gifts and legacies; agreed disposal of movables up to 30 000 French francs; payment of the expenses and fees of lawyers, bailiffs and experts; amount of compensation for expropriation up to the limits of the estimation by the fiscal services; creation of primary school classes; realignments in town planning documents; pre-emption rights; legal actions; settlement for damage caused by municipal vehicles.

At each council meeting, the mayor has to report on the decisions taken in the context of this delegation of powers, which may be withdrawn.

**d. Distribution of powers and responsibilities between the different organs of the commune**

The law gives the municipal council general authority to govern the affairs of the commune through its decisions. It nevertheless has to respect powers attributed to the mayor and which constitute for the council the limits of its attributions.

The respective attribution of the municipal council and the mayor are distributed as follows: the creation and general organisation of the services of the commune are the responsibility of the municipal council; however, as regards municipal staff, the municipal council can take decisions concerning the general status of employees, but only the mayor is empowered to take individual measures (appointments); in matters of policing, and the authorisation of waste disposal, only the mayor is empowered to take decisions.

**e. Legal provisions concerning the internal structures of the communes**

The powers and responsibilities of the municipal council and the mayor are governed by the provisions appearing in the municipal code (*code des communes*), in its legislative part.

### **3.2. The *département***

#### **a. Deliberating body**

The general council (*conseil général*) governs the affairs of the *département* through its decisions.

The councillors are elected on the basis of one seat per canton.

The number of members of a general council varies according to the *département* (seventy-six in the *département* of *Nord*, fifteen in the *département* of *territoire de Belfort*).

Members of the general council elect the chairman of the general council, the vice-chairmen and other members. These officers elected at the second level form the standing committee.

Election is by direct universal suffrage. The type of ballot is a two-round majority system.

To be elected in the first round, it is necessary to obtain both an absolute majority of the votes cast and a number of votes at least equal to one quarter of the number of electors on the roll.

In the second round, election is by simple majority, regardless of the number of voters. If several candidates obtain the same number of votes, the oldest one is declared the winner.

Members of the general council are elected for six years and half of them are renewed every three years.

#### **b. Executive body**

The chairman of the general council is the executive body of the *département*. He prepares and executes the decisions of the general council.

There is no collegial body. However, the chairman may delegate part of his functions, under his control and responsibility, to the vice-chairmen and, in the case of their absence or unavailability, to other members of the general council.

The chairman is elected by the members of the general council by absolute majority for a period of three years. If after two rounds of voting no candidate has been elected, there is a third round with election by simple majority of the members of the general council. In the case of an equal number of votes, the oldest candidate is declared elected.

#### **c. Political head of the *département***

The chairman of the general council is the political head of the *département*, and has sole responsibility for its administration.

The Act of 2 March 1982 on the rights and freedoms of communes, *départements* and regions transferred the executive functions previously exercised by the prefect, to the chairman of the general council. The latter thus saw his position considerably reinforced *vis-à-vis* the state representative in the *département* (the prefect).

This reinforcement was accentuated by the transposition of the municipal model: like the mayor in the commune, the chairman from the majority in the general council plays a major role.

The chairman of the general council prepares and presents the budget. He authorises the expenditure and determines, except where otherwise provided by the law, the revenues of the *département*.

He/she is the head of the *départemental* services and may delegate authority to sign on his behalf to the heads of these services, under his control and responsibility.

He/she manages the public property of the *département* and exercises police powers over it.

He/she brings legal actions for the general council (or, by delegation, the standing committee).

He/she is responsible for concluding contracts of all kinds on behalf of the *département*, according to the conditions laid down by the general council (or the standing committee).

He/she directs *départemental* works. He/she is responsible for preliminary examination of the matters to be submitted to the deliberating assembly.

Each year, the chairman informs the general council, in a special report, of the situation of the *département*, and the activities and the financing of the different services. He/she also reports on the state of execution of the general council's decisions and the financial situation of the *département*.

**d. Distribution of powers and responsibilities between the different organs of the *département***

The general council has general powers for governing the affairs of the *département*.

It may delegate its powers to the standing committee, except those relating to the voting of budgets, the entering of compulsory expenditures in the budget and the settlement of the *départemental* accounts.

**e. Legal provisions concerning the internal structures of the *département***

The legal provisions relating to the organs of the *département* appear in different laws (Act of 10 August 1871 amended; Act of 2 March 1982 amended, in particular).

**3.3. The region**

**a. Deliberating body**

The regional council is the deliberating body of the region.

The regional councillors are elected in the *départements* of each of the regions. The number of regional councillors varies according to the *département*.

The size of the regional councils ranges from thirty-one seats (in Guyana) to 197 seats (in the Île-de-France).

The regional councillors elect the chairman of the regional council, the vice-chairmen and other members of their assembly, to form the standing committee.

Election is by direct universal suffrage. The regional councillors are elected by list, by highest average proportional representation, without any mixing of lists or preferential votes.

The seats are allocated to candidates according to their order of appearance on each list. Lists must have obtained a number of votes at least equal to 5% of the votes cast to be admitted to the distribution of seats.

If several lists have the same average for the allocation of the last seat, the seat goes to the list having obtained the greatest number of votes. In the case of equality of votes, the seat is allocated to the oldest candidate.

The regional councils are entirely renewed every six years.

#### **b. Executive body**

The chairman of the regional council is the executive body of the region.

There is no collegial body. However, the chairman may delegate part of his functions, under his control and responsibility, to the vice-chairmen and, in the case of their absence or unavailability, to other members of the regional council.

The chairman is elected by the members of the regional council by absolute majority for a period of three years. If after two rounds of voting no candidate has been elected, there is a third round with election by simple majority of the members of the regional council. In the case of an equal number of votes, the oldest candidate is declared elected.

#### **c. Political head of the region**

The chairman of the regional council is the political head of the region, and has sole responsibility for its administration.

Like the mayor and the chairman of the general council, the chairman of the regional council coming from the majority in the deliberating assembly plays a vital role in the orientation and implementation of the political choices.

The chairman of the regional council authorises the expenditure of the region and determines the revenues, except where otherwise stated by the law.

He/she is the head of the services of the region and can delegate, under his control and responsibility, any matter to the heads of individual services. Moreover, he/she manages the public property of the region, represents the region in the conclusion of contracts, brings legal actions on behalf of the region by virtue of the decision of the regional council (or, by delegation, the standing committee) and is responsible for preliminary examination of the matters to be submitted to the deliberating assembly.

Each year, the chairman informs the regional council, in a special report, of the situation of the region, the activities and financing of the different services of the region and the bodies depending on it. The report gives details of the state of execution of the regional council's decisions and the financial situation of the region.

**d. Distribution of powers and responsibilities between the different organs of the region**

The regional council has general powers for governing the affairs of the region.

It may delegate its powers to the standing committee, except those relating to the voting of budgets, the entering of compulsory expenditures in the budget and the settlement of the regional accounts.

**e. Statutory provisions concerning the internal structures of the region**

The statutory provisions are contained in Act No. 72-619 of 5 July 1972, as amended, on the creation and organisation of the regions and in Act No. 82-213 of 2 March 1982, as amended, on the rights and freedoms of the communes, *départements* and regions.

#### **4. DIRECT PARTICIPATION BY CITIZENS IN DECISION-MAKING**

The French system of local administration is such that there cannot be said to be any direct participation by citizens in the decision-making process: the territorial authorities are administered by elected councils which take all the decisions within their fields of competence. It is thus a case of indirect participation, through the councillors elected by direct universal suffrage.

However, the Act of 6 February 1992 now authorises the communes to consult their electors on affairs falling within the competence of the commune. But this is only a consultation, intended to clarify the decision of the municipal council.

#### **5. STATUS OF LOCAL ELECTED REPRESENTATIVES**

##### **5.1. Eligibility conditions and term of office**

French nationality is required: the minimum age is 18 for local elections and 21 for *départemental* and regional elections. It is necessary for a candidate to be a voter in the electoral district in which he stands, or to be on the list of direct tax payers there on 1 January of the year of the election. For regional elections, it is possible, without being a resident, to be inscribed on an electoral list before the day of the election. The number of elected representatives who do not reside on the territory of the commune may not exceed one quarter of the members of the council (half for communes of less than 500 inhabitants); the same rule applies for *départemental* representatives.

Mandates are renewed every six years.

The number of elective mandates, all levels taken together, is limited to two; however, this limitation does not take account of the mandates of municipal councillor (with the exception of Paris), deputy mayor of a commune of fewer than 100 000 inhabitants or mayor of a commune of fewer than 20 000 inhabitants.

## 5.2. Incompatibility

The status of municipal councillor is incompatible with:

- active career military service;
- the posts of prefect, sub-prefect or secretary general of a prefecture;
- active service in the national police force;
- hospital directorate posts.

There are also various forms of ineligibility:

- sub-prefects, prefects or secretary generals of prefectures may not be elected as municipal councillors for three years following the cessation of their duties in the *département* or *arrondissement* to which they were posted.

In addition, the following cannot be elected as municipal councillors in communes situated in areas where they have or had served for less than six months:

- appeal court judges;
- members of administrative courts and regional audit divisions;
- army, navy and air force officers in municipalities situated in their geographical commands;
- judges of district and regional courts;
- police officers;
- municipal accountants and the providers of municipal services;
- directors and principals of prefectures and the chief secretaries of sub-prefectures;
- members of the *cabinet* (private office) of the chairmen of general councils (of *départements*) and regional councils, directors general, directors and deputy directors, heads of department and principals of general and regional councils;<sup>1</sup>
- members of the private office of the president of the assembly and of the chair of the executive council of Corsica and the directors general, directors and deputy directors, heads of department and principals of the territorial authority of Corsica and of its public institutions.

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1 Act No 91-428 of 13 May 1991.

The following district roads officials: chief engineers, divisional and state public works engineers, principal and state public works heads of section.

Paid municipal employees may not be elected to the municipal council of their employing authority. This category does not include public officials or self-employed persons who only receive payment from the commune for specific services rendered in the course of their work or, in communes with fewer than 1 000 inhabitants, those employed purely on a seasonal or occasional basis.

Duties and activities incompatible with the position of elected representative apply throughout the period of office.

### **5.3. Regulations governing the financing of election campaigns**

The Act of 15 January 1990, as updated by the Act of 15 January 1995, establishes an upper limit for election expenditure in terms of the number of inhabitants in the area or constituency concerned (for example, 11 French francs in authorities of up to 15 000 inhabitants).

These provisions apply to elections of municipal, *départementale* and regional councils. Candidates must lodge campaign accounts setting out their total expenditure. These accounts may be inspected by the administrative courts. The relevant legislation also instituted public financing for national political parties.

### **5.4. Working conditions**

The local authorities administer themselves freely, which includes the provisions governing the status of their elected representatives; the conditions thus vary from one authority to another. The average number of committees per commune is four. Meetings in the communes are generally held at weekends or in the evenings, while for the general councils and regional councils the meetings tend to be during working hours. These are simply general practices. Although the working time of local representatives cannot be quantified, a significant increase in the workload of local councillors is perceptible as a result of the process of decentralisation. Representatives have the secretarial services of the assembly of which they are members, and the use of offices in the official buildings of the authority.

Elected representatives who are established civil servants are entitled to a certain number of hours exemption from their paid employment.

Elected representatives' remuneration is liable to income tax. Members have the option of choosing between deduction at source and incorporating their payments into their other taxable income.

There is no specific statutory provision granting elected representatives leave entitlement.

Elected representatives have to subscribe to the supplementary retirement benefit scheme (IRCANTEC).

## 5.5. Duties and responsibilities of local representatives

The chairmen of regional or general councils, the Corsican assembly, an overseas assembly or an overseas assembly territorial executive, and the mayors of communes of over 30 000 inhabitants have to declare their wealth situation at the beginning of the mandate. An office-holder cannot take part in a decision on a subject in which he has an interest, either personally or as representative, on pain of the decision being illegal. The offence of interference – i.e. for a local representative to give or receive any interest whatsoever in the acts, adjudications, enterprises or companies of which he had, at the time of the deed, in whole or in part, administration or control – is punishable by imprisonment for between six months and two years, a fine and permanent debarment from exercising any public function. Elected representatives may be indicted for any act committed in the exercise of their functions, but the proceedings may be initiated only after the intervention of the criminal chamber of the Appeals Court. For offences committed outside the public function, there is no immunity but a privilege of jurisdiction enabling the case to be tried outside the electoral district in which the functions are exercised. Lastly, a municipal or *départemental* office-holder who, with no valid excuse, refuses to fulfil any function devolved upon him by the law is declared to have resigned by the administrative tribunal, and cannot stand for election again with a period of one year.

## 5.6. Resignation

Municipal councillors must submit their resignations to the mayor. They do not have to be accepted.

The resignation of mayors or their deputies must be accepted by the prefect.

There is no provision for the vocational reintegration of elected representatives who are not re-elected.

## 5.7. Training

The national centre for local and regional public officials, a public body, is responsible for training elected representatives on a voluntary basis. Municipal councillors have a statutory entitlement to six hours' training per year, financed from the municipal budget.

## 5.8. Remuneration

All local elective functions are subject to the principle of non-remuneration. No function gives a right to payment. Mayors and deputy mayors nevertheless receive a duty allowance, determined by the law according to the size of the commune. *Départemental* and regional representatives receive an attendance allowance, in principle intended to cover expenses, but it is sometimes accepted that they can be of a mixed nature and serve, to a certain extent, to make up for the loss of earnings due to the time devoted by these representatives to public affairs. For the regional councillors and members of general councils, the law establishes the principle of reimbursement of travelling expenses, board and lodging, and expenses connected with the execution of special mandates. Municipal councils are free to pay expenses to the mayors. Allowances are, in certain circumstances, taxed.

### **5.9. Representation of the sexes**

Parliament has never imposed quotas on electoral lists. Women are considerably less well represented than men.

## **6. DISTRIBUTION OF POWER BETWEEN THE DIFFERENT CATEGORIES OF LOCAL AND REGIONAL AUTHORITIES**

The acts on the transfer of powers introduced since 1983 are based on the following principle: the distribution of power between the state and the territorial authorities distinguishes as far as possible between those which are the responsibility of the state and those which are devolved to the communes, *départements* or regions, so that each field of competence and the corresponding resources are attributed en bloc either to the state or to the communes, or the *départements*, or the regions. There are nevertheless many exceptions to this principle of the attribution of a package of powers to a single authority.

Because of the French constitutional principles, the definition of the powers exercised by the territorial authorities is a matter for legislation, as is the distribution of power between these authorities and the state.

The following table contains a general presentation of the distribution of power between the state and the territorial authorities.

Function	Competent authority			Type of competence				Exercise of the competence				Remarks
	State	Intermediate*	Municipality	Exclusive	Shared	Compulsory	Discretionary	Direct	Indirect	In own right	For another authority	***
<b>General administration</b>												
Security, police			•	•		•				•	•	
Fire protection			•	•		•				•		
Civil protection	•					•		•		•	•	
Justice	•		•		•	•		•	•	•		
Civil status register	•			•				•				
Statistical office	•			•				•				
Electoral register			•	•		•		•				
<b>Education**</b>												1
Pre-school education	• (S)		• (I)		•	•		•				1
Primary education	• (S)		• (I)		•	•		•				2
Secondary education	• (S)	region (I)			•	•		•				2
Vocational and technical	• (S)	region (I)				•						3
Higher education	• (S)			•		•		•				4
Adult education		region (I)				•						
Other												
<b>Public Health</b>												
Hospitals	•				•				•			5
Health protection	•	department	•		•			•				

Function	Competent authority			Type of competence				Exercise of the competence				Remarks
	State	Intermediate*	Municipality	Exclusive	Shared	Compulsory	Discretionary	Direct	Indirect	In own right	For another authority	**
<b>Social Welfare</b>												
Kindergarten and nursery			•	•				•				
Family welfare services		departement			•	•		•				6
Welfare homes	•	departement			•				•	•		7
Social security	•			•				•				8
Other		departement										9
<b>Housing and town planning</b>												
Housing	•			•	•			•				
Town planning			•		•	•				•		
Regional/spatial planning	•	departement	•		•	•			•	•		10
<b>Environment, public sanitation</b>												
Water & sewage	•		•		•	•		•				
Refuse collection & disposal			•	•		•		•				
Cemeteries & crematoria			•	•		•		•				
Slaughterhouses												
Environmental protection	•		•		•	•		•				
Consumer protection	•			•		•		•				
<b>Culture, leisure &amp; sports</b>												11
Theatres & concerts	•	departments	•	•								
Museums & libraries	•	departments	•		•							
Parks & open spaces			•	•				•				
Sports & leisure	•		•						•			

Function	Competent authority			Type of competence				Exercise of the competence				Remarks ***
	State	Intermediate	Municipality	Exclusive	Shared	Compulsory	Discretionary	Direct	Indirect	In own right	For another authority	
Religious facilities												
Other cultural facilities												
<b>Traffic, transport**</b>												
Roads	•		•		•			•				
Transport	•	department	•		•			•				12
Urban road transport			•		•			•				
Urban rail transport		region					•					
Ports	•	department	•									13
Airports	•			•			•	•				
Other traffic & transport												
<b>Economic services</b>												
Gas			•	•				•				
District heating			•	•				•				
Water supply			•	•								
Agriculture, forests, fishing												
Electricity	•	•			•				•			14
Economic promotion	•		•		•					•		
Trade & industry												
Tourism	•		•		•					•		
Other economic services												
<b>Other functions</b>												
Employment												

(\*) where several intermediate levels exist the competent local government is indicated

(\*\*) the competence refers to infrastructures (I) or to the management (M)

(\*\*\*) for any remarks see last page in this country's table

**REMARKS**

1. Since 1996, communes have been responsible for the establishment, construction and maintenance of elementary schools and classes.
2. *Départements* are responsible for the establishment, construction and maintenance of lower secondary schools (*collèges*) while upper secondary schools (*lycées*) and special education establishments are a regional responsibility.
3. The state is responsible for drawing up curricula, the payment of staff, the organisation of studies and the geographical distribution of university facilities, and accompanying regulations.
4. Since 1993, the regions have been responsible for in-service and apprenticeship training activities, while the state can decide on activities which are general in scope.
5. Since 1994, communes have contributed financially to *départements'* expenditure in the health field. *Départements* are responsible for medical visits and measures to combat tuberculosis and cancer. Mental health is a state responsibility. Public health is a responsibility of the *départements*, *communes* and regions, though the state exercises supervision.
6. The responsibilities of *départements* include child care, services for mothers and infants, social assistance for families and aid to disabled persons.
7. *Départements* are also responsible for assisting elderly people.
8. The state provides financial assistance arising from the principle of national solidarity and aid to permit a minimum level of subsistence.
9. Since 1984, communes have contributed financially to *départements'* expenditure in the social welfare field. They can also grant certain forms of emergency assistance. *Départements* are responsible for certain social welfare establishments.
10. Since 1983-84, communes, *départements* and regions have all been involved in drawing up strategy plans and land use plans. The state exercises supervision in this field and is responsible for protecting the architectural heritage and national parks. *Départements* prepare signposted walks and regions manage regional nature parks. In the context of economic planning and development, since 1983 *communes* have been responsible for inter-communal development charters, *départements* for infrastructure assistance programmes and regions and the state for regional plans.
11. Since 1986, communes, *départements* and regions have had authority to develop cultural activities and to provide cultural services, including libraries and museums. However, the state exercises supervision in this area.
12. Since 1984, school transport within urban areas has been financed by communes and outside those areas by *départements*.
13. Finally, since 1984, communes have managed sailing harbours and *départements* commercial and fishing ports, while regions have been responsible for maintaining and developing river ports and navigable waterways; the state is concerned with ports of national importance and has police powers.

## 7. CO-OPERATION AND OTHER TYPES OF RELATIONS BETWEEN THE LOCAL AND REGIONAL AUTHORITIES

### 7.1. Institutionalised co-operation

For the realisation of projects of common interest, local authorities have the possibility of joining together in public entities created for this purpose.

There are several types of co-operation entity. It is useful to distinguish between those which associate only local authorities of the same level and those which bring together local authorities of different levels, or even other public law bodies.

The co-operation entities associating authorities of the same level are:

- **For the communes:**
  - . consortia of communes (single-purpose or multi-purpose);
  - . districts;
  - . urban communities;
  - . new town consortia;
  - . communities of communes;
  - . communities of towns.
- **For the *départements*:**
  - . *interdépartemental* institutions and bodies.
- **For the regions:**
  - . interregional agreements or institutions.

The co-operation entities associating authorities of different levels (*communes-départements*-regions) are the mixed consortia.

All these co-operation entities are public establishments. They are invested with legal status and financial independence. Their acts are subject to control by the prefects.

### 7.2. Nature of consortia or joint authorities

Except for urban communities which, in the case of four of them (Bordeaux, Lille, Lyon, Strasbourg), were created from above by the Act of 1966, the co-operation entities are freely created by the authorities joining together.

When they were created in 1890, the consortia of communes, which were the first co-operation structures to be authorised, could pursue only a single objective. They were single-purpose entities.

As from 1959, they were authorised to pursue multiple objectives. Not only are co-operation entities no longer prohibited from pursuing different activities, but certain of them are obliged to do so. This is the case with the urban communities, for which the law lays down a set of eleven compulsory activities, and communities of communes and towns, which are responsible for groups of activities in different fields.

All the other groupings decide their own field of responsibilities, which may be single- or multi-purpose.

### **7.3. Purposes of consortia and joint authorities**

It is necessary to make a distinction between the entities invested with compulsory powers and those with powers freely decided by the founder members.

Entities invested with compulsory powers:

#### **a. urban communities have powers in the fields of:**

- intercommunal development and improvement charters, master plans, land-use plans or town planning documents taking their place, local habitat programmes, constitution of land reserves of interest to the community, the municipal councils having to be consulted for their opinion;
- creation and realisation of concerted improvement zones; economic development actions; creation and equipping of industrial, tertiary, craft, tourism, port or airport activity zones; rehabilitation actions of community interest;
- taking into consideration of an overall improvement programme and determination of the improvement sectors named in Article L. 332-9 of the town planning code (*code de l'urbanisme*);
- construction, improvement and maintenance of school premises in the “zones and sectors mentioned in 2. and 2. bis realised or determined by the community;” on the expiry of a period of ten years from their entry into service, the ownership and maintenance of these premises is transferred, on demand, to the commune on whose territory they are situated; in this case, the conditions for repayment of the loan outstanding on these premises shall be determined by concordant decisions of the community council and the municipal council concerned;
- emergency and firefighting services;
- urban passenger transport;
- upper and lower schools;
- water and drainage, with the exception of agricultural hydraulics, household refuse;
- creation of cemeteries and extension of the cemeteries thus created, crematoria;
- slaughterhouses, meat markets, markets of national importance;

- roads and traffic signs and signals;
- parks and parking.

The urban community may attribute financial aid to member communes in order to contribute to the provision or operation of facilities of community importance.

#### **b. community of communes**

The object of a community of communes is to bring communes together in an area of solidarity, in order to draw up a joint project for the development and improvement of the local rural area. The community has full rights to act for and in the place of the member communes to pursue action of community interest, with powers in land use and economic development actions of interest to the whole of the community.

The community of communes must also exercise under the same conditions powers in at least one of the four following fields:

- protection and promotion of the environment, where appropriate under *départemental* schemes;
- housing and human habitat policy;
- creation, improvement and maintenance of the roads;
- construction, maintenance and running of cultural and sports facilities and facilities connected with pre-school and elementary education; cultural action and promotion; in the *départements* of Haut-Rhin, Bas-Rhin and Moselle, construction and maintenance of buildings allocated to religions whose ministers are paid by the state.

#### **c. communities of towns**

A community of towns is intended to bring communes together in a perimeter of urban solidarity for the concerted development of the conurbation. As such, it has full powers to act for and in place of the member communes for the conduct of actions of community interest, exercising these powers and issuing the associated regulations for each of the two following fields:

- land use: master plan, sectoral plan, intercommunal charter for development and improvement, establishment of local habitat programmes under Article L. 302-1 of the construction and housing code, creation and realisation of concerted improvement zones;
- economic development actions, creation and equipping of zones for industrial, tertiary, craft, tourism, port or airport activities.

The community of towns must also exercise under the same conditions the powers associated with at least one of the four following groups:

- protection and promotion of the environment, human habitat policy, fight against water and air pollution, fight against noise, drainage, collection, treatment and disposal of wastes under *départemental* schemes where these exist;
- housing policy and rehabilitation actions;
- creation, improvement and maintenance of roads, urban mobility plans and urban transport;
- construction, maintenance and running of cultural and sports facilities and facilities connected with pre-school and elementary education; cultural action and promotion; in the *départements* of Haut-Rhin, Bas-Rhin and Moselle, construction and maintenance of buildings allocated to religions whose ministers are paid by the state.

**d. the new town consortia**

The new town consortia are responsible for the programming and investment in the fields of town planning, housing, transport, the various utility networks, new roads, economic development, planning documents, concerted improvement zones. They also manage the facilities recognised as of common interest according to an inventory drawn up after agreement by the qualified majority of the municipal councils.

**e. the districts**

The districts have two compulsory tasks regarding firefighting centres and housing services.

**f. entities with powers freely determined by the statutes**

These entities are essentially the single-purpose and multi-purpose consortia, mixed consortia and districts. Their missions are for the most part limited to:

- the provision of technical infrastructures: roads, water supply, drainage, hydraulic engineering works, etc.;
- management of industrial and commercial public services: collection and treatment of household refuse, school bus service, management of school or quasi-school activities (canteens, creches), management of health and social service activities.

## 8. FINANCE

### 8.1. Taxes

#### – Rates and taxes reserved for local authorities

Taxes voted by the local authorities which receive the revenue, but for which the tax base is set and the taxes are collected by the state.

<b>DIRECT TAXATION (276 billion francs in 1994):</b>	
<ul style="list-style-type: none"> <li>. Property tax on improved sites:</li> <li>. Property tax on unimproved sites:</li> <li>. Residence tax:</li> <li>. Self-employed tax:</li> <li>. Household refuse collection tax:</li> <li>. Road-sweeping tax:</li> <li>. Pavement tax:</li> <li>. Road paving tax:</li> <li>. Communal and <i>départementale</i> mining dues:</li> <li>. Lump sum tax on electric pylons:</li> </ul>	<ul style="list-style-type: none"> <li>communes</li> <li>groupings</li> <li>special system</li> <li><i>départements</i>, regions</li> <li>communes, groupings</li> <li>communes</li> <li>communes</li> <li>communes</li> <li>communes, <i>départements</i></li> <li>communes</li> </ul>
<b>INDIRECT TAXATION (60 billion francs in 1994):</b>	
<ul style="list-style-type: none"> <li>. Urban development taxes:</li> <li>. Local public facilities tax:</li> <li>. Charge for exceeding the maximum legal building density:</li> <li>. Charge for exceeding the land occupation coefficient:</li> <li>. <i>Départementale</i> tax to finance architectural, town planning and environmental consultancy:</li> <li>. <i>Départementale</i> tax for sensitive natural green spaces:</li> <li>. Tax additional to the local public facilities tax raised for the benefit of the Île-de-France region:</li> <li>. Charge for the creation of the bureau in the Île-de-France region:</li> <li>. Charge for non-provision of parking areas:</li> </ul>	<ul style="list-style-type: none"> <li>communes, groupings</li> <li>communes, groupings</li> <li>communes, groupings</li> <li>communes, groupings</li> <li><i>départements</i></li> <li><i>départements</i></li> <li>region Île-de-France</li> <li>region Île-de-France</li> <li>communes, groupings</li> </ul>
<b>OTHER CHARGES AND INDIRECT TAXES</b>	
<ul style="list-style-type: none"> <li>. Taxes on electricity:</li> <li>. Entertainment tax:</li> <li>. Taxes on advertising posters:</li> <li>. Tax on fixed advertising hoardings:</li> <li>. Tax on advertising vehicles:</li> <li>. Licence fee for premises selling alcoholic drinks:</li> <li>. Visitor's tax, lump-sum visitor's tax and additional <i>départementale</i> tax:</li> <li>. Communal tax on the takings from gaming in casinos:</li> <li>. Tax on bowling and skittle alleys:</li> <li>. Tax on ski lifts:</li> <li>. Surcharge on mineral waters:</li> <li>. Tax for health protection in and organisation of meat markets:</li> <li>. Tax for the use of slaughterhouses:</li> <li>. Proportion of the hunting licence fee:</li> </ul>	<ul style="list-style-type: none"> <li><i>départements</i>, communes</li> <li>communes</li> <li>communes</li> <li>communes</li> <li>communes</li> <li>communes</li> <li>communes, <i>départements</i></li> <li>communes</li> <li>communes</li> <li>communes</li> <li>communes</li> <li>communes</li> <li>communes</li> <li>communes</li> </ul>
<b>STATE TAXATION HANDED OVER TO THE LOCAL AUTHORITIES AS THE RESULT OF THE TRANSFERS OF POWERS IMPLIED BY THE DECENTRALISATION ACTS:</b>	
<ul style="list-style-type: none"> <li>. Motor vehicle road tax:</li> <li>. Tax on motor vehicle registration:</li> <li>. <i>Départementale</i> tax on property advertising and <i>départementale</i> registration fee:</li> </ul>	<ul style="list-style-type: none"> <li><i>départements</i> and the territorial authority of Corsica</li> <li>regions</li> <li><i>départements</i></li> </ul>

– **Rates/taxes collected as an additional sum on top of state rates/taxes**

- |   |              |
|---|--------------|
| . Communal tax additional to property transfer duty:              | communes     |
| . <i>Départementale</i> tax additional to property transfer duty: | départements |
| . Regional tax additional to property transfer duty:              | regions      |

The local authorities (communes, groupings with their own taxation rights, *départements*, regions) are free to set the rate or percentage of these taxes or to introduce them where they are optional. For the four direct local taxes, the voting of the tax rate is governed by the following rules:

- imposition of a ceiling, to limit the tax burden,
- a link between the rates, so as not to advantage (or disadvantage) one category of taxpayer as compared to another.

Local authorities are not empowered to institute new types of rates/taxes not provided for under the law.

## 8.2. Subsidies granted by the state to the local authorities (272 billion francs)

The state grants different types of subsidies. The first type is represented by the operating subsidies which are distributed as follows:

- the global operating grant (*dotation globale de fonctionnement* – DGF) of the communes represents between 27% of the budget of communes with over 10 000 inhabitants and 30% of the budget of communes with fewer than 10 000 inhabitants;
- the DGF of the *départements* represents about 7% of the budget of the *départements*;
- the national equalisation fund of the self-employed tax (*fonds national de péréquation de la taxe professionnelle* – FNPTP) (second fraction);
- the rural development grant (*dotation de développement rural* – DDR) intended to favour the economic development of intercommunal structures and rural centres (*bourgs-centres*), this constitutes the first fraction of the national equalisation fund of the self-employed tax (FNPTP), financed by freezing from one year to the next the evolution of a state subsidy paid to the local authorities to compensate for falls in the self-employed tax rate.
- particular contributions paid to the communes:
  - . core city (*ville-centre*) grant intended to take account of the specific costs resulting, for the communes in the centres of conurbations, from the use of their facilities by the inhabitants of neighbouring communes. This grant is funded by a levy on the total resources of the DGF;
  - . tourist grant intended to take account of the exceptional costs resulting for certain communes due to their receiving a seasonal population. These grants are funded by a levy on the total resources of the DGF;

- . urban solidarity grant (*dotation de solidarité urbaine* – DSU) intended for the most disadvantaged urban communes, funded by reduction of the guaranteed minimum rate of progression of DGF paid to the most favoured communes;
- aid specific to the communes of the Île-de-France region:
  - . solidarity fund of the communes of the Île-de-France region intended to attenuate the inequalities of wealth between the communes of the Île-de-France, funded by a levy on the tax resources of the most favoured communes.

The second type of subsidies is represented by the local facility subsidies. They are distributed as follows:

- the VAT compensation fund (FCTVA), the beneficiaries of which are:
  - . communes, *départements*, regions, their groupings and their enterprises;
  - . bodies responsible for the management of new towns;
  - . *départementale* fire and emergency services;
  - . communal social action centres;
  - . school funds;
  - . the national centre of the local government service management centres;
- the global equipment grant (*dotation globale d'équipement* – DGE) of the communes, each of the two parts of which corresponds to a different distribution regime according to the size of the authorities concerned;
- the DGE of the *départements*, paid to the *départements*, groupings of *départements* of an administrative nature, *départementale* fire and emergency services, the national centre for the local government service.

The subsidies granted by the state to the territorial authorities are founded on several legislative and regulatory bases.

The global operating grant (DGF) was created by Act No. 85-1268 of 29 November 1985 and brought into force by the following decrees: of 31 December 1985, 11 April 1988 and 6 May 1988 for the communes, consortia of communes and communities of new towns and of 17 October 1988 for the *départements*. It was reformed by Act No. 91-429 of 13 May 1991 instituting an urban solidarity grant and a solidarity fund of the communes of the Île-de-France region, reforming the DGF for the communes and *départements* and modifying the municipal code (*code des communes*) and is distributed by the local finance committee.

The national equalisation fund of the self-employed tax (FNPTP) was created by Act No. 80-10 of January 1980, endowed with resources by Act No. 82-540 of 28 June 1982, resources allocated by Act No. 86-29 of 9 January 1986 and by decrees fixing the annual allocation on the advice of the local finance committee;

The VAT compensation fund (FCTVA) was created by Act No. 76-1232 of 29 December 1976 amended, brought into force by Decree No. 89-645 of 6 September 1989 and an initial circular of 29 November.

Finally, the global equipment grant (DGE) for the *départements* was created by Act No. 82-213 of 2 March 1982 amended, implemented by Act No. 83-8 of 7 January 1983 amended on the allocation of powers between the communes, the *départements*, the regions and the state and for the communes by Act No. 85-1352 of 20 December 1985 amended, brought into force by decrees of 1985, 1988 and 1989.

The amount of the DGE is defined, each year, in the initial finance law; the grants are allocated annually by decree (see table).

**Table showing overall state financial support<sup>a</sup>**

	1994 (LFI) <sup>b</sup>	1995 (LFI) <sup>b</sup>	Change 1994/95
<b>1. Operating grants and subsidies</b>			
· Global operating grant	98 144	99 812	+1,7%
· Special teachers' grant	3 155	3 024	-4,2%
· State grant to the FNPTP (including DDR)	1 296	1 385	+6,9%
· Local elected member's grant	250	250	+0,0%
· Grants from various ministries (Ministry of Interior)	4 595 515	4 707 402	+2,4% -22,1%
<b>Total</b>	<b>107 440</b>	<b>109 178</b>	<b>+1,6%</b>
<b>2. Equipment grants and subsidies (programmes authorised)</b>			
· General equipment grant	5 895	6 089	+3,3%
· VAT compensation fund	21 800	22 800	+4,6%
· Levies in respect of lump-sum traffic fines	1 200	1 300	+8,3%
· Grants from various ministries (Ministry of Interior)	3 561 310	3 495 445	-1,9% +43,6%
· Special Treasury accounts	1 057	1 158	+9,6%
<b>Total</b>	<b>33 513</b>	<b>34 842</b>	<b>+4,0%</b>
<b>3. Financing of transfers of responsibilities</b>			
· General decentralisation grant	13 333	13 569	+1,8%
· Vocational training grant	3 818	4 726	+23,8%
· Regional school equipment grant	2 947	3 044	+3,3%
· <i>Départementale</i> lower secondary school equipment grant	1 458	1 506	+3,3%
· General decentralisation grant for Corsica	1 155	1 218	+5,5%
<b>Sub-total</b>	<b>22 711</b>	<b>24 063</b>	<b>+6,0%</b>
Transferred taxes	38 059	40 001	+5,1%
<b>Total</b>	<b>60 770</b>	<b>64 064</b>	<b>+5,4%</b>
<b>4. Compensation for statutory exemptions and tax relief</b>			
· Compensation for self-employed tax	18 304	19 144	+4,6%
· Compensation for the exemption on developed and undeveloped land tax	1 303	1 298	-0,4%
· Compensation for exemptions on local taxes	8 416	9 396	+11,6%
· Compensation for various forms of statutory tax relief	30 943	34 469	+11,4%
<b>Total</b>	<b>58 966</b>	<b>64 307</b>	<b>+9,1%</b>
<b>1. Overall total excluding transferred taxes</b>	<b>222 630</b>	<b>232 390</b>	<b>+4,4%</b>
<b>2. Overall total including transferred taxes</b>	<b>260 689</b>	<b>272 391</b>	<b>+4,5%</b>

a In millions of francs.

b *Loi de finances initiale* (Preliminary Finance Act).

### 8.3. Equalisation methods

The principal operating grants (DGF and FNPTP) are allocated according to equalisation criteria.

Within the DGF there are two modes of allocation:

- the first takes account of the costs borne by the communes (the size of the population, which induces operating costs, number of social dwellings, number of schoolchildren, length of communal roads).
- the second is concerned with equalisation and represents about 37.5% of the total DGF funding. Credits are distributed according to the tax shortfall, as measured by the difference between the commune's fiscal potential and the reference fiscal potential (that of the demographic stratum to which the commune belongs), weighted by the fiscal effort. In the final analysis, the less the fiscal wealth of the commune, the more it will receive in compensation through the DGF.

Part of the credits is also distributed according to the average *per capita* income (as compared with that of the stratum), but this represents only about 7% of this equalisation grant.

The greater part of the FNPTP (about 70% of the annual resources) are destined to effect a redistribution between communes (approximately half of the French communes) which structurally have only a small self-employed tax base – this tax being the principal source of fiscal resources. This form of equalisation benefits above all small rural communes. The second part of the fund is reserved for communes which suffer a loss of the self-employed tax base from one year to the next (closure of enterprises) and which thus lose considerable tax revenue.

The recent legislative changes – creation of the DSU and the DDR – attempt to correct certain anti-equalisation effects observed with the DGF and accelerate the redistribution effort within these operating grants.

### 8.4. Loans

French local authorities are entirely free to resort to borrowing without having to obtain authorisation from any higher authority.

Decisions concerning loans are governed by the same legal regime as other decisions: in order to be applicable, they must be transmitted to the prefect. The latter may refer the matter to the administrative tribunal if he considers that the conditions of legality have not been fulfilled.

In form, the decision must authorise the mayor to proceed to the loan.

In content, the loan, which constitutes income in the investment section, must cover capital expenditure. In no circumstances can it be used to repay an earlier loan. The legal conditions of the loan are those of ordinary law (the legal rate of interest must not be exceeded).

Local authorities are free to contract a loan with any credit institution. They have considerable latitude concerning foreign currency loans. For the loans they grant to local authorities, banking institutions have no particular means of refinancing, nor any system of state allowance.

For loans to local authorities there is a “reference” institution, which is the *Crédit local de France*. However, this private law commercial enterprise, the majority of whose capital is of a public nature (state and *Caisse des dépôts and consignations*) has no particular privilege and is in direct competition with the other banks.

Local authorities also have the possibility of issuing bonds on the financial market.

There are no special guarantees. In general, any creditor of a local authority may obtain the initiation of a procedure bringing in the regional audit office (*chambre regionale des comptes*) and ending up with the prefect officially inscribing into the budget of the said authorities the expenditure corresponding to the payment of the debt.

## 8.5 Budgetary control

The rules of budgetary control set out in the Act of 2 March 1982 amended and completed by Acts No. 82.623 of 22 July 1982, No. 85.97 of 25 January 1985 and No. 86.320 of 19 August 1986, No. 88.13 of 5 January 1988, No. 90.55 of 15 January 1990 and No. 92.125 of 6 January 1992 apply to communes, *départements*, regions and their public establishments.

The field of budgetary control is strictly defined. It concerns only budgetary instruments in the strict sense:

- initial budget;
- supplementary budget;
- any modificatory decision(s);
- any annexed budget(s);
- administrative account.

It concerns solely the following points:

- the dates of voting and transmission of the initial budget (Articles 7, 51 and 83 by reference);
- the true balancing of the budget (Articles 8, 51 and 83 by reference);
- approval of the accounts (Articles 9, 51 and 83 by reference);
- inscription and payment of compulsory expenditures (Articles 11-12, 52-53 and 83 by reference).

Budgetary control is exercised by the state representative in the *département* or region. He calls upon the regional audit office (*chambre regionale des comptes*).

Budgetary control makes it possible to modify the budget of an authority and hence to substitute one instrument for another.

**a. Deadline for voting the initial budget: (Articles 7, 51 and 83)**

The initial budget has to be voted before 31 March. This deadline is extended to 15 April in the year in which the local assemblies are renewed.

This budget must be transmitted to the state representative not more than fifteen days after the deadline set for its adoption. Failing this, the state representative refers the case without delay to the regional audit office.

Within the month following the referral, and by public notice, the office formulates proposals for the settlement of the budget.

The state representative settles the budget and makes it enforceable. If he departs from the proposals of the audit office, he must provide explicit reasons for his decision.

Once the matter has been referred to the regional audit office, the powers of the deliberating assembly in budget matters are suspended until the completion of the procedure.

Until the transmission of the initial budget to the state representative or its official settlement, the authorising officer (*ordonnateur*) has the right to incur, settle and pay operating expenses up to the limit of those entered in the previous year's budget. He also has the right to pay the expenses involved in the capital repayment of the annual instalments of the debt falling due before the voting of the budget. In addition the authorising officer may, on the authorisation of the municipal council, incur, settle and pay investment expenditure up to the limit of one quarter of the appropriations in the previous year's budget, exclusive of the credits relating to the repayment of the debt, and lastly, he may collect the operating income.

**b. True balancing of the budget: (Articles 8, 51 and 83)**

Incomes and expenditures have to be evaluated realistically and must balance in both the operating and investment categories; in addition, the repayment of the debt must be financed by income definitively accruing to the authority.

In the absence of a true balance, the state representative has a period of thirty days in which to refer the matter to the regional audit office.

The regional audit office has thirty days in which to propose to the authority concerned the measures necessary to rebalance the budget (including the creation of additional income or the restriction of optional expenditure).

The authorities has to decide within one month from the reception of the office's proposals. If there is no decision, or else a decision comprising measures deemed insufficient to rebalance the budget, the regional audit office has fifteen days in which to give its judgement and request the prefect to settle the budget. The state representative has to give explicit reasons for his decision if he departs from the office's proposals.

The transmission of the commune's budget to the regional audit office has the effect of suspending the execution of this budget until the completion of the procedure.

As a result, so long as the budget is not operative, the provisions of Article 7 above are applicable for the collection of income, the engagement and settlement of operating expenses and the settling of expenditure relating to the repayment of the principal of the debt falling due.

On the other hand, expenditure in the investment section, from which the expenses concerning the repayment of the debt principal are excluded, may be engaged and settled up to the limit of one half of the relevant appropriations in the budget whose execution is suspended.

The authority's accountant must be informed of the referral to the regional audit office so that he can determine the appropriation duly entered.

When the budget has been settled by the state representative:

- the supplementary budget relating to the same financial year must be transmitted by the prefect to the regional audit office;
- the voting of the corresponding administrative account must take place before the voting of the budget of the following financial year<sup>1</sup> (so that if the authority should run into deficit, this deficit can be carried forward to the initial budget.
- the initial budget of the following financial year must be transmitted to the regional audit office by the prefect.

### **c. Adoption of the accounts (Articles 9, 51 and 83)**

The results of the budgetary operations are recorded in two documents:

- the revenue and expenditure account drawn up by the accountant, which must be transmitted not later than 1 June of the year following the end of the financial year concerned.

However, where the revenue and expenditure account applies to a settled budget, the deadline for the transmission of this account is brought forward to 1 May.

- the administrative account presented by the mayor has to be voted before 30 June. It is transmitted to the state representative not later than fifteen days after the deadline for adoption. Failing this, the prefect refers the matter to the regional audit office of the latest budget voted by the commune.

When the administrative account reveals a deficit equal to or greater than 10% of the operating income for communes of less than 20 000 inhabitants or 5% in other cases, the state representative refers the matter to the regional audit office.

The office proposes to the authority concerned, within one month, the measures necessary to rebalance the budget (including the raising of additional receipts or the restriction of optional expenditures).

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<sup>1</sup> In this case, the deadlines for the adoption of the budget, as set out in Article 7 mentioned above, are extended to 1 June. The transmission of the budget to the state representative takes place not later than fifteen days after the deadline for adoption.

This implies that the administrative account of the previous financial year must be voted not later than 1 June (or 15 June) and transmitted to the state representative not later than fifteen days after the deadline for adoption.

The next initial budget is compulsorily transmitted to the office, which checks whether or not the rebalancing measures have been implemented in this budget. In this latter case, it proposes the necessary rebalancing measures to the state representative within one month. The initial budget is settled and made operative by the prefect.

**d. Entering and approval of obligatory expenditures (Articles 11, 12, 52, 53 and 83)**

Local authorities have to include in their budgets estimates corresponding to obligatory expenditures. The authorising officer also has to pass them.

For the communes, the only obligatory expenditures are those necessary for the payment of debts due and expenditures expressly laid down by the law.

When an obligatory item of expenditure is not included in the budget, the regional audit office, called in by the state representative or by the public accountant concerned (the accountant of the debtor authority) or by any person concerned, must rule within one month on the obligatory nature of the expenditure.

If the regional audit office does not recognise the obligatory nature of the expenditure, the procedure is terminated. The prefect is bound by the opinion of the regional audit office.

If the regional audit office recognises the obligatory nature of the expenditure, it gives formal notice to the commune concerned.

If within one month there has been no compliance with the formal notice, the regional audit office requests the prefect to enter this expenditure in the budget of the commune and proposes, if need be, the creation of resources or the reduction of optional expenditure to cover the obligatory expenditure.

The prefect approves the budget and makes it operational accordingly: in so doing, he may depart from the proposals of the regional audit office with good and sufficient reason (council of state: commune of Brives-Charensac versus Arnaud).

Being a case of *ex officio* settlement, this procedure involves only the state representative approached by the creditor.

It may concern expenditures which have been officially entered if the authorising officer fails to approve them, but also expenditures for which there are estimates in the budget which the authorising officer refuses to approve.

If the expenditure is not approved, the prefect formally instructs the commune to do so; if within one month (if the expenditure is 5% of the operating section, the period is two months) the mayor refuses to approve the estimates concerned, it is for the prefect to do so *ex officio*.

The regional audit office also exercises management supervision of local authorities and over the companies, establishments or groups laid down by law. As a result of this supervision, comments may be passed on to local officials and to the state's representative.

In addition, the state's representative may forward public service contracts and sub-contracting agreements to the regional audit office.

## 9. SUPERVISION OF LOCAL AND REGIONAL ADMINISTRATION

In compliance with Article 72 of the Constitution, the Act of 2 March 1982 on the rights and freedoms of the communes, *départements* and regions entrusted the state representative in the *département* or region with the exercise of *ex post facto* control over the acts of the local authorities.

The above Act of 2 March 1982 abolished prior control over the decisions of local authorities, replacing it by *ex post facto* control (i.e. after the instruments have become operational), no longer concerned with anything other than the legality of the decisions.

It is thus now for the prefect to assess whether or not each decision transmitted to him is contrary to the legal rules applicable to this decision.

If he considers a decision illegal, he has to refer it to the administrative court.

Before referral to the administrative court, the prefect may approach the local authority whose decision appears illegal to him, in order to have the latter nullify the decision or bring it into conformity with the legal rule.

This approach extends the remedy time limit applicable to the prefect.

Only the administrative judge is competent to pronounce the annulment of local authority decisions.

To the extent that all the decisions of the territorial authorities have obligatorily to be transmitted to the prefect, the latter may control the actions of the local authorities.

Any authority wrongly controlled, or even impeded in the exercise of its prerogatives, would be able to submit to the administrative judge a claim for state liability if it were able to prove that the improper control had caused it prejudice for which it demanded redress. But such appeals are made more often against inaction on the part of the state.

The accounts of local authorities are checked by the prefect and the regional audit office.

In addition, the Act of 7 July 1983 on local mixed-economy enterprises entrusted the prefect with the exercise of particular control over the acts of these enterprises.

Prefectorial intervention can be motivated only by the protection of the financial interests of the local authorities for which he thus acts as guarantor.

Through this control, it is not so much the enterprise which appears subject to an administrative regime as the direct or indirect intervention of the local authority shareholders.

Lastly, the interministerial commission of inquiry into public contracts intervenes either at the request of the prefect, or of its chairman, to control the conditions of the negotiation, devolution and execution of certain public contracts concluded by the territorial authorities.

## 10. APPEALS BY INDIVIDUALS AGAINST LOCAL AND REGIONAL AUTHORITIES' DECISIONS

All French territorial authorities (local and regional) are public law entities and form, together with the state, the administration in the legal sense of the term.

Individuals are therefore able to appeal against the administrative decisions of local and regional authorities on the basis of ordinary law, in the same way as against acts of the state.

It will be recalled that the conditions governing such appeals in French public law are flexible:

- the services of a lawyer are not required (in the – most common – case of *ultra vires* appeals).
- it suffices for the individual to plead a relevant status and interest, the former condition being simply of a formal nature (civil capacity to go to law), the latter being broadly interpreted by the courts (mere existence of a damaged interest).

## 11. LOCAL AND REGIONAL ADMINISTRATIVE STAFF

### 11.1. Definition of the main staff categories

The staff of territorial authorities (*communes-départements-regions*) are divided into two categories: local government officers and non-established staff.

#### a. Local government officers

Local government officers have the rights and obligations of the general statute applicable to established staff of the three public services (state civil service, hospital service, local government service) defined by the Act of 13 July 1983.

In addition, local government officers are governed by the provisions of the Act of 26 January 1984, which applies to persons appointed to permanent and established posts in a grade of the administrative hierarchy of the *communes*, *départements*, regions or the public establishments belonging to them.

Local government officers belong to *cadres* (corresponding to *corps* in the state civil service), divided into four categories designated, in descending hierarchical order, by the letters A, B, C, and D. The memorandum of understanding concluded on 9 February 1990 on the renewal of the scale of classifications and remunerations of the three public services provides for the abolition of category D.

The notion of career is at the heart of the statutory provisions, as the local government service is based, like the state civil service, on the separation of the grade and the post: in the case where an established officer loses his post, he retains his grade, remains in local government service and can be appointed to any other post corresponding to his grade.

Where the territorial authority or the public establishment cannot offer a new post to the person concerned, the case is taken over by a specific body: the national centre for the local government service in the case of category A and the *départementale* management centre for local government officers in the case of categories B, C and D.

The specific features of the local government service are as follows:

– ***the cadres***

The concept of *cadre* implies the management of local government officers within the authority or establishment to which they belong, whereas the *corps* of the state civil service are managed at national level.

“In pursuance of Article 4 of the Act of 26 January 1984 as amended, a cadre comprises the officers subject to the same particular statute, who hold a grade permitting them to occupy a number of posts.”

The particular statutes of *cadres* are of a national nature. They ensure a single career pattern for local government officers while permitting them to change authority.

– ***functional posts***

The Act of 26 January 1984 (Article 53) enumerates the functional posts that may be occupied by a local government officer. (Examples: director general of services of *départements* and regions, secretary general and deputy secretary general of communes of over 5 000 inhabitants.)

The territorial authority may, in certain circumstances, terminate the functions of a local government officer occupying a functional post.

If he is not transferred to a post within his authority, he can then be taken over and transferred by the national centre for the local government service or may receive compensation if he decides to leave the local government service.

– ***staff working part-time***

Staff working part-time are very often to be found in the case of authorities which, because of the smallness of the local population, need to employ people for just a few hours a week for administrative tasks, maintenance and for the services provided to the public.

When these employees, who may have several employers simultaneously, have a total of at least thirty-one and a half hours of work per week, they are integrated into the *cadre* in accordance with the decree of 20 March 1991.

**b. Non-established staff**

Non-established staff do not hold a grade in the administrative hierarchy but are recruited for a post on a fixed-term contract and in precise circumstances.

The Act of 26 January 1984 amended (Article 3) defines the circumstances justifying the use of non-established staff by territorial authorities:

- replacement of an established officer temporarily absent;
- where a vacant post cannot be filled immediately;
- to meet seasonal or occasional needs;
- where there are no officers in the employment cadre capable of fulfilling the functions required;
- for category A posts, where the nature of the functions or the needs of the services justify it;
- in addition, communes of fewer than 2 000 inhabitants and groupings of communes where the arithmetic mean of the populations does not exceed this threshold are authorised to recruit non-established staff to fill part-time posts where the number of hours worked is less than or equal to thirty-one and a half hours a week.

The Act of 26 January 1984 amended (Article 47) provides for the direct recruitment of staff on the qualification conditions laid down in decree 88-545 of 6 May 1988 to fill high-level posts, for example, director general of the services of *départements* and regions, secretary general and director general of the technical services of communes of over 80 000 inhabitants, deputy secretary general of communes over 150 000 inhabitants.

Access to these posts does not confer established status in the local government service.

Finally, the territorial authority may, to form its cabinet, freely recruit one or more “assistants” and may freely terminate their functions (Article 110 of the Act of 26 January 1984).

A decree of 16 December 1987 fixes the maximum number of “cabinet assistants” according to the size of the territorial authority, for example, one person for a commune with a population of fewer than 20 000 inhabitants and three people where the population of the *département* is less than 100 000 inhabitants.

## **11.2. Authority responsible for administrative status**

The staff rules for the local government service are fixed by legislation and regulation and are of a national nature.

In accordance with the constitutional principle of free administration for local authorities, only the law can determine the principles which govern this freedom. The local government service is thus based on Act No. 84-53 of 26 January 1984 amended, containing statutory provisions concerning the local government service. This Act has been supplemented by that of 12 July 1984 as regards the training of local government staff.

As far as regulations are concerned, a number of texts have been drawn up since 1984 to establish the general statutory provisions governing, in particular, the conditions of recruitment, positions, assessment and disciplinary procedures applicable to local government officers.

In addition, since 1987, decrees have established special national rules governing local government officers belonging to cadres, in accordance with Article 4 of the Act of 26 January 1984.

The *cadres* are grouped according to branch of activity.

The different *cadres* by branch of activity are: administration, technical services, culture, sport, medico-social, security and activity leadership.

Each particular set of rules fixes for the local government officers of a *cadre* the provisions governing recruitment, training, promotion conditions and remuneration.

The constitutional principle of free administration for local authorities results in freedom of staff management at local level.

The posts in each authority or establishment are created by the deliberating body of the authority or establishment.

Individual decisions concerning the recruitment and career of local government officers are taken by the territorial authority, within the framework of the statutory provisions defined at national level.

In fact, in accordance with Article 4 of the Act of 26 January 1984 amended, local government officers are managed by the authority or establishment to which they belong. The following are the responsibility of the territorial authority alone:

- appointment to the grades and posts of the local government service,
- staff movements within the authority or establishment,
- power of assessment, advancement of officers (grade and step), disciplinary action.

### **11.3 Authority responsible for financial status**

Article 20 of Act No. 83-634 of 13 July 1983 on the rights and obligations of public servants provides that public servants are entitled, in arrears, to remuneration comprising the salary, living allowance, family allowance and any allowances instituted by legislation or regulations.

It is therefore necessary to distinguish between, on the one hand, the system of remuneration and, on the other, the system of allowances.

**a. System of remuneration**

Power to fix pay scales lies at national level.

Decree 85-730 of 17 July 1985 provides that state civil servants and local government officers are governed by the same provisions as regards the methods of calculating pay, the living allowance and the family allowance.

The salary is determined according to the officer's grade and the step he has reached within it, or the post to which he was appointed.

A decree specific to each particular set of staff rules fixes the salary index matrix applicable to each employment classification for local government officers classified in categories A and B.

For local government officers of categories C and D, a decree of 30 December 1987 fixes the different pay scales (I to V) applicable to these categories.

Measures concerned with pay reviews for all public servants and are introduced through regulations.

The territorial authorities have no powers of decision regarding the fixing of local government officers' pay.

**b. Allowance system**

The general context of the allowance system for local government officers was completely changed by the Act of 28 November 1990 on the local government service. This Act states that: "The deliberating assembly of each territorial authority or the board of a public establishment shall fix the allowance systems within the limit of those enjoyed by the different services of the state."

The application of this general provision required the publication of a decree of the Council of state (decree 91-875 of 6 September 1991).

The fact is that, without calling into question the decision-making power of territorial authorities in the matter, it was necessary for the regulatory power to fix a general reference framework so as to maintain the principle of equivalence of treatment for the exercise of similar functions, on the one hand, between local government officers and, on the other, between state civil servants and local government officers.

The legislature having limited the action of the local authorities as regards allowances by the allowance systems applicable to the services of the state, the aim of the decree was to identify the services of the state – having regard to the functions exercised – whose equivalence with those of local government officers permits their allowance system to be taken as a reference.

Whenever equivalence is expressly established, the allowance system applicable to the state serves as reference and as limit to the allowance system established by the territorial authorities.

Implementing this arrangement is the responsibility of the territorial authorities. The latter have great freedom in determining the allowance system they wish to implement and to adapt it to each officer, within the limits laid down by the above-mentioned decree.

The arrangements introduced by the decree of 6 September 1991 apply, at present, to local government officers in the administrative and technical functions.

Pending the introduction of these new arrangements for employees in the cultural, medico-social and sports functions, the earlier texts continue to apply.

#### **11.4. Relationship of conditions of service to those of the national civil service**

In France, there are three public services: the state public service (regulated by the Act of 11 January 1984, the hospital public service (regulated by the Act of 9 January 1986) and the territorial public service (regulated by the Act of 26 January 1984).

These three public services are based on a general set of regulations, fixing the rights and obligations of public servants on the basis of the Act of 13 July 1983. This act establishes the guarantees accorded to public servants (for example freedom of opinion, right to strike, right to join a trade union) and the obligations incumbent upon public servants (for example professional secrecy, answering enquiries from the public).

The Act of 13 July 1983 establishes the public service on the career system. This involves the separation of grade and post.

The connection between the state public service and the territorial public service is the possibility of mobility between these two services.

The Act of 13 July 1983 states that access for state civil servants to the local government service and for local government officers to the state civil service, as well as their mobility within each of these two public services, constitute fundamental guarantees for their career.

This mobility between public services may be effected (Article 14 of the Act of 13 July 1983) by secondment, whether or not followed by integration. The particular sets of staff regulations may also provide for such access through internal competitive examination and, where appropriate, open competition.

The particular statutes of the *cadres* generally provide for the secondment of officers from the state public service or the hospital public service who hold a grade or post classified in an identical category and of a comparable remuneration level.

Only the *cadre* of territorial administrators has a limitative list of officers who can be seconded within it.

In all cases, secondment may be followed by integration after two or five years.

Internal examinations are open to all civil servants and officials serving in government departments or international intergovernmental organisations.

The opening of the state civil service to local government officers requires the modification of the particular statutes rules governing *corps* and posts. Indeed, as a result of certain particular statutes of the state civil service *corps* being modified along these lines, local government officers now have scope for access, through secondment, to *corps* belonging in particular to the Ministry of the Interior (*corps* of sub-prefects), the Ministry of National Education (teachers with the *agrégation* or *CAPES*, general secondary school teachers, senior educational counsellors), Ministry of Social Affairs (senior staff of the regional and *départementale* health and social affairs departments), Ministry of the Economy and Finance (*corps* of inspectors of the external services of the department for competition, consumption and the suppression of fraud).

Article 19 (2) of the Act of 11 January 1984 on statutory provisions concerning the state civil service also provides for the possibility of local government officers sitting the internal competitive examinations of the state civil service, on the conditions set out in the particular statutes concerned. (Examples: certain *corps* of teaching staff, *corps* of inspectors of the external services of the department for competition, consumption and the suppression of fraud).

## **11.5 Authority responsible for recruitment**

### **a. General provisions governing recruitment to the local government service**

These general provisions result from Act 83-634 of 13 July 1983 on the rights and obligations of public servants.

Thus, certain conditions have to be fulfilled for candidates to have access to the public service. They must:

- be in possession of their civil rights;
- have no entries on bulletin No. 2 of their police record incompatible with the exercise of the functions;
- be in compliance with the requirements of the national service code;
- fulfil the physical aptitude conditions required for the exercise of the function;
- possess French nationality.

This last condition remains, but the Act of 26 July 1991 provides for the possibility of nationals of other European Community countries acceding to the French public service under certain conditions.

In addition, in conformity with Article 16 of the aforementioned Act of 13 July 1983, public servants are recruited by competitive examination, unless otherwise provided by the law. The competitive examinations are of two types: external, which are open to candidates holding certain diplomas or having completed certain courses of study (selection may be on the basis either of tests or of paper qualifications) and internal which are open to public servants having completed a certain period of service (selection is on the basis of tests).

In addition, the particular staff regulations fix a quota of posts which may be offered to public servants of a certain age in order to favour internal promotion.

Responsibility for organising competitive examinations is shared between the territorial authorities and the following bodies:

- the national centre for the local government service and the management centres, which are public establishments.

In the case of the creation of a post or the occurrence of a job vacancy, prior to the organisation of a competitive examination, the territorial authority has to notify the competent management centre, which advertises the new or vacant post.

This arrangement makes it possible to fill a post through transfer, secondment or, where appropriate, internal promotion and grade advancement before a competitive examination is held.

The national centre for the local government service is responsible for the general co-ordination of competitive examinations for public servants of categories A and B.

For staff of category C, the competitive examinations are organised:

- by the management centres for the territorial authorities compulsorily or voluntarily affiliated to them. (Communes and their public establishments employing fewer than 250 full-time established officers and trainees are compulsorily affiliated),
- by the territorial authorities which are not affiliated to a management centre.

Successful candidates are placed in alphabetical order on a nationally valid eligibility list.

The eligibility list includes, on the one hand, the successful candidates and, on the other, people reinscribed by virtue of an earlier competitive examination.

The law fixes the maximum number of names that can appear on the eligibility list at 120% of the number of posts to be filled.

Inscription on an eligibility list is not equivalent to recruitment.

## **b. Appointment**

Power of appointment lies with the territorial authority.

Appointment is conditional, as the appointee has to complete a probationary period under conditions fixed by the particular staff rules.

On completion of the probationary period, the territorial authority confers established status.

### **11.6. Staff numbers**

Total number of administrative staff at each level of local and regional government

As preliminary remarks, it must be noted that the figures given for the number of local government staff result from the annual survey of local government staff carried out by the National Institute for Statistics and Economic Studies (INSEE). Moreover, the detailed figures concern the local government staff of regions, *départements* and communal and intercommunal bodies.

The total staff of the territorial authorities also includes the territorial staff working in the field agencies (*services déconcentrés*) of the state, in state-owned enterprises and other public establishments.

The staff listed are not only administrative personnel but also include those working in all other branches of local government activity (administrative, technical, cultural, sports, medico-social, security).

Figures are given for all jobs; i.e. the total number of physical persons, as well as for all jobs converted to full-time equivalent (jobs given a weighting to take account of the substantial development of part-time employment among local government officers).

#### Staff of territorial authorities by type of authority

	All jobs as of 31 December 1989	All jobs converted to full-time equivalent as of 31 December 1989
<b>Regions</b>	4 605	6 687
<i>Départements</i>	151 936	151 123
<b>Communal bodies</b>	916 618	973 056
– communes	836 277	886 086
– communal social action centres	63 234	51 391
– schools	17 107	10 014
<b>Intercommunal bodies</b>	78 542	93 374
– urban communities	21 892	21 187
– districts	8 052	7 482
– multi-purpose consortia	16 786	13 058
– single-purpose consortia	31 006	20 730
– other local public establishments	806	750

For the breakdown of staff by category, it must be noted that it indicates on the one hand, established staff and non-established staff, and on the other hand, the breakdown by hierarchical category.

There are four categories:

Category A: includes posts involving general studies, and departmental management for which higher education is required.

Category B: includes posts corresponding to executive functions requiring personal judgement for which *baccalauréat* level education is required.

Category C: is represented by skilled executive functions for which BEPC (lower secondary education certificate) is required.

Category D: is made up of unskilled executive functions for which no formal qualification is required.

#### **Breakdown of staff by category as of 31 December 1989**

Category of personnel	Established	Non-established
Category A	37 988	18 672
Category B	106 869	22 123
Category C	504 767	81 924
Category D	126 990	210 627
Unknown	45 838	24 801
<b>TOTAL</b>	<b>822 452</b>	<b>358 147</b>

## **12. ONGOING OR PLANNED REFORMS**

Decentralisation has been proceeding virtually unchecked for more than ten years.

Openness, solidarity and modernisation are the three themes which inspired the 1988-1993 legislature.

1992 saw the passing of the Act on the territorial administration of the Republic (Act of 6 February 1992) and of the Act on the exercising of local government mandates (Act of 3 February 1992).

During the life of this parliament the funeral management law has been reformed (Act of 8 January 1993), local authority banks have been modernised (Act of 15 June 1992) and the state has provided financial assistance for access to public libraries (Act of 13 July 1992).

A study is currently being carried out at the Government's request in order to clarify allocation of powers between different levels of government: region-*département*-commune.