Local Power to Tax and Devolution: An Empirical Assessment of the French Constitutional Reform

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Summary: The article explores the content and the consequences of the constitutional reform of March 2003. Among the objectives of that reform, one is to preserve the tax autonomy for the local public sector, another is to ensure that the coming wave of devolution of competencies to decentralised levels of government will be adequately financed. The constitutional safeguards are thus assessed and they prove to be somewhat counterproductive, as if the recourse to the higher level of juridical norms could not replace the legislative level when reforms of local public finance, however difficult, have to be conducted.

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1. Introduction

The implementation of devolution in a unitary state is the prerogative of the central government. It nonetheless can induce a significant level of decentralisation. Such is certainly the case of France, where downwards subsidiarity has been put into practice with the two "Decentralisation Acts" of 1982 and 2004-2008. Concurrently, the local public sector has soon felt concerned about the preservation of its financial autonomy, hence the (elusive?) temptation of a constitutional safeguard.

1.1. Devolution and decentralisation in multilevel governments

In theory, the distinctive feature of federalism is the ongoing and (imperfectly) competitive reassignment of prerogatives among the different levels of government. Those reassignments can be of constitutional magnitude (Inman and Rubinfeld, 1997a, 1997b) whereas in unitary states, the central government keeps the ultimate control on the reallocation of power (Salmon, 2000). In this context, devolution takes on two forms. On the one hand, federal states may proceed to *a posteriori* reassignments, by which we mean post-constitutional adjustments in prerogatives (Winer, 2000). This is the case for instance with the USA (Tannenwald, 1998). On the other hand, unitary states must conceive any devolution at the constitutional level itself, since the very nature of Unitarianism implies that the faculty of norm creation is the monopoly of the central government.

However, this Kelsenian distinction (see Josselin and Marciano, 2004a, for an economic interpretation) between federal and unitary structures does not predetermine the

level of (de)centralisation of multilevel governments. Federal structures can prove to be highly centralised whereas unitary states can evidence a significant level of decentralisation. An instance of the former case is given by the US experience (Holcombe, 1996). Furthermore, as is shown by a somewhat overlooked but nevertheless striking result of Rose-Ackerman (1981), competition among states and with the federal level can lead to more centralisation in a federation than in a unitary state. An illustration of the latter case is the recent French institutional history, where the reallocation of power towards lower levels of governments has been quite active for the last two decades. France has indeed experienced a first wave of decentralisation in the early eighties and is currently entering an ambitious second stage from 2004 to 2008. It confirms and extends the application of subsidiarity to public governance.

1.2. The French experience of decentralisation: Subsidiarity in practice

If subsidiarity is inherent to multilevel government, it is not for all that specific to any form of government structure. It simply happens that its implementation is initiated by the central government in unitary states whereas in a federation it proceeds from ongoing reassignments between the levels of governments, at least in theory (in a bargaining context, higher levels may in practice have the advantage of the "first mover"). In both cases anyway, subsidiarity develops can develop in three directions (Josselin and Marciano, 2004b). Downwards subsidiarity amounts to transferring a given prerogative to a lower level of government, for instance social policies for the elderly being transferred to the French *départements*. Lateral subsidiarity concerns public structures of the same level and their co-operation (this goes from interregional co-operation for transport policies to military alliances). Upwards subsidiarity implies a delegation of prerogatives to a higher level of government. It can be the case when a national government delegates tasks to the EU level. It is also exemplified by inter-communal structures in France.

Subsidiarity has obviously become a key concept of the European governance. EU treaties explicitly mention it but remain quite elusive as to the financial aspects of its implementation. One may say that France is doing the opposite. There is no explicit recourse to the term but there is a clear emphasis on the fiscal dimension of the ongoing devolution process that may prove to dramatically change governing structures in France. This devolution mostly rests on downwards subsidiarity and contributes to make France into an increasingly decentralised country.

1.3. Aim and organisation of the article

To inflect past trends and to prevent them in the future may have been the first goal of the local public sector when it put pressure on the central government to implement a constitutional reform that will eventually take place in 2003. This first goal is subordinated to a second one, namely the preservation of the autonomy of decentralised levels of government. The concept of autonomy is of course broad enough to bring in debates, both at the constitutional and at the post-constitutional levels. The aim of the article is to show that as far as the autonomy of the local public sector is concerned, the constitutional safeguard may turn out to be counterproductive. In order to demonstrate it, we first provide an overview of the constitutional reform of March 2003 (section 2). We then follow the Kelsenian framework for studying decentralisation. In a static setting, we consider the evolution of the autonomy of the local public sector for a given perimeter of competencies, and its possible future under the new constitutional setting. The corresponding section 3 mainly deals with the assessment of the local power to tax. Section 4 uses a dynamic setting in which the perimeter of competencies is or will be extended through the devolution process. It then assesses the impact of tax reform and tax sharing on local autonomy. Section 5 provides concluding remarks.

2. The constitutional reform of March 2003: An overview

The constitutional reform of March 2003 is obviously not an accident in the history of French public finance. Its ambition as well as its ambiguities can be traced back as early as the French revolution. It nonetheless intends to confirm that the financial resources granted to or at the disposal of the local public sector will be up to the task of the now so-called "decentralised republic".

2.1. The constitutional reform: Financial safeguards for the local public sector

The 14 December 1789 law establishes the *communes* as the primary level of subsidiarity. This basic administrative structure mirrors the 44 000 parishes of that time. The revolutionary debates are nevertheless quite significant of the ongoing discussions. According to the 1789 law, the role of municipalities is twofold. They first have autonomous tasks to perform; they concurrently act as the agents of their common principal, the central state. This tension between the municipality-principal on its land and the municipality-agent of the centre is in principle eased with the 1958 constitution, which guarantees that the "free administration" of local communities is a constitutional statement. The latter turns out to be ineffective as it lacks a precise content. As we will see below, grants soon develop to the detriment of local resources. Thanks to concurrent political mandates, local politicians soon lobby in Parliament and in Senate to get assurances that the autonomy of the local public sector will be preserved or restored particularly in the (paradoxical?) context of growing decentralisation.

From the 1990s on, begins a period of constitutional reforms on various aspects of public life (there are 11 revisions between 1991 and 2003). The local public sector uses the

impetus of this wave to reach its goal. In 1991, a decision of the Constitutional Council paves the way for the reform. The question asked to the Council is whether the suppression of a local tax is unconstitutional. The answer (decision 91-298, 24th of July, 1991) is far from decisive (it is in fact nearly tautological): It states that no law should go as far as compromising the free administration of local communities by reducing their power to tax. However, the door is now open for a debate of constitutional magnitude. The Senate in particular builds on it and increases the pressure when the central government decides to suppress the wage part of the base of the local business tax (progressively from 1999 to 2003).

Article 72.2 of the Constitution (Constitutional law n°2003-276, 28th of March 2003) explicitly specifies three financial safeguards for the local public sector:

- tax autonomy
- compensation for devolved competencies
- equalisation

The first principle is meant to prevent the erosion of the local power to tax. The second one intends to provide compensations for the financing of prerogatives reassigned from the central government to the local level. In other words, the conditions of implementation of downwards subsidiarity are given a constitutional status. This is also the case with the third principle, since horizontal equity is explicitly stated as an objective.

Though listed separately in Article 72.2, the three principles interact. Tax autonomy and equalisation are competing objectives at the microeconomic level. For instance, a local community with a relatively low tax base receives an equalisation grant to compensate for it. This reinforces fiscal capacity but not tax autonomy. At the macroeconomic level, equalisation is financed by using part of the compensations for local tax exemptions. These

resources are used to correct financial inequalities among local communities. Such exemptions obviously go against the local power to tax (Gilbert and Guengant, 2004). The situation is simpler as regards compensations for devolved competencies: They are complementary to tax autonomy.

2.2. The underlying objectives of the constitutional reform

If we leave out the objective of equalisation, the other two goals of the constitutional reform are closely related to the reassignment of prerogatives towards lower levels of government. The first one consists in bending or even breaking a trend: National grants have progressively taken too much weight relatively to local taxation. Since the 1980s, reduction in local tax bases (e.g. the local business tax) or even the suppression of taxes (e.g. the taxes on vehicles for the *départements*) have been only partially compensated for by the central government. The ensuing fiscal centralisation could not be prevented by the standard legislative game (Guengant and Josselin, 2005). Despite the widespread practice of concurrent political mandates, the lobbying power of the local public sector has not been sufficient, hence the recourse to the constitutional level.

The second objective is to prevent excessive budgetary tensions at the local level during the decentralisation process. The reassignment of prerogatives during the "First Act" of decentralisation (1982-1983) implied an increase in expenditures that has not been fully compensated by national grants. Associated with stable or decreasing tax bases, the risk of unbalance has been reinforced by limits to tax rates increases (legal limits and, to a lesser and mitigate extent, competitive limits). In the perspective of the "Second Act" (2004-2008), the constitutional guarantee is meant to ensure balanced compensations for the transfers of prerogatives, preferably through taxation rather than by way of grants.

After this overview, the following sections provide a closer look at the two objectives of tax autonomy and compensation for devolved tasks. Tax autonomy is first discussed for a given perimeter of competencies: Will the constitutional provision give an adequate safeguard against the centralisation of public finance? Second, while decentralisation endogenises the set of prerogatives of local governments, it does not necessarily provide the right amount of resources, and the right resources to finance devolution.

3. Static assessment: Constitutional safeguards for the local power to tax

Constitutional political economy stresses the importance of post-constitutional debates and the practical ways of norm implementation. This theoretical view finds here a significant application. Once the necessity of tax autonomy is declared, how will it be put into practice? What will be defined as a suitable objective?

3.1. Providing a constitutional guarantee of tax autonomy…

The constitutional guarantee of tax autonomy is interpreted by an organic law (n° 2004-758, 29th of July, 2004) which provides an explicit measure of reference for each group of local governments, namely the *communes*, *départements*, and *régions*. The operational principle is that the proportion of proper or distinctive resources must not be lower than a "decisive share" (*part déterminante*) of total resources. Now, the share of proper resources has been steadily decreasing in the recent past (see table 1). The trend is broken at the observed allocation in 2003. The references thus become 55.97% for the *communes*, 57.40% for the *départements*, and 36.07% for the *régions*. The organic law defines proper resources as those revenues directly controlled by the local assemblies. Grants and subsidies are thus non autonomous resources and the constitutional norm intends to stop their relative growth. User

charges and tax revenues are obviously proper resources but, if we concentrate on the latter, their local control is dependent on two variables, the tax rate and the tax base.

[insert table 1]

At first glance, the local power to tax primarily rests on the vote of rates. In legal terms, this vote is a unilateral administrative act whose effect is immediate and certain. Indeed, the central government bears the risk of tax collection. The main limitations come from the imposed links between rates and from the existence of upper bounds. The local power to tax is also dependent on the tax base effect. Denote $T = tB$ the tax revenue where t is the rate and B is the total base. Total derivation gives $dT = Bdt + tdB$, the two terms on the right side describing the rate effect and the base effect respectively. A discrete interpretation with two periods 0 and 1 gives $T_1 - T_0 = B_1 dt + t_0 dB$. The impact of rate variation on the current tax revenue is clearly endogenous: Here lies a first source of autonomy. The impact of the evolution of the base, assessed at the initial rate, is also partially endogenous. Local public policies do influence the location of individuals and firms. Services and taxes are then likely to be capitalised into base values. Contrary to the tax rate, the tax base effect is nonetheless uncertain and usually not immediate. Furthermore, the organic law does not specify that the base be sensitive to local public policies. That may in a way threaten tax autonomy whenever the impact of policies is not reflected in tax bases.

An illustration of it is the sharing of national taxes among different levels of government. As transfers of competencies are growing and since local tax bases (or local taxes) are shrinking, the central government may be tempted to share fiscal resources whose

base has no connection with local public decisions. The organic law considers this revenue as a proper one, which excessively enlarges the field of proper resources.

All in all, the organic law provides an imperfect but real safeguard to the erosion of tax autonomy. It is also an answer to the difficulties to reform local public finance these last twenty years.

3.2. …In order to stop the decline in local taxation

The constitutional guarantee may not have been necessary, had the reform of the local tax system been conducted properly. Conversely, the measures which have indeed been implemented have mostly contributed to a centralisation of public finance. The appeal of the local public sector to the higher norm intends to fight against both the cost of non reform and the centralising effects of implicit reform.

3.2.1. The cost of non reform

The decline in local tax autonomy is prompted by the central government. Over the last few years, it suppresses local taxes like the regional housing tax, the property tax on agricultural land for the *départements* and the *régions*; As was mentioned previously, it also reduces the base of the local business tax by removing wages from its calculus. All those expedients mostly derive from the failure to reform the system of local public taxation. Among the rejected projects, one may cite a local business tax based on value-added (rather than on production factors as now) in 1985; A departmental income tax in 1992; Attempts of reassessment of property values (which turn out to be sometimes quite remote from estate market values) in the 1990s.

As a consequence, inequalities and inefficiencies soon begin to characterise the French system of local public taxation. The central government decides to bear part of the burden of local contributions, which are thus transferred to national taxpayers. Local tax relieves are (sometimes partially) compensated by the national budget. In 2004, the central government is the first local taxpayer, financing half the local business tax, one-third of the housing tax and of the property tax on land. Only the property tax on buildings remains a local one for most of it (see figure 1).

[insert figure 1]

What is the constitutional safeguard with regard to that situation? Before answering the question one must distinguish between two forms of tax compensations. First, legislative tax relieves (*dégrèvements législatifs*) are decided by parliament. They do not influence the tax base and hence not the local fiscal revenue. Individuals or firms are relieved of part of their contribution, which is paid for by the national budget. For the local government, the operation is neutral and preserves its fiscal capability. Second, tax exemptions (*exonérations*) do reduce the tax base, which by the way further disconnects local public policies from tax revenues.

Compensations by the national budget for tax exemptions usually take the form of grants, or get included in an existing grant. Contrary to what happens with legislative tax relieves, this mechanism of compensation is often partial and submitted to unbalanced negotiations between the local public sector and the central government (Guengant and Josselin, 2005). For example, the compensation grant for the local business tax is the adjustment variable of the contractual agreement governing fiscal relations between the local

and national levels. It has been substantially shrinking over the last few years. The organic law explicitly rules out tax exemptions from the field of proper resources, thereby claiming the importance of tax control by local assemblies. In this respect, the constitutional guarantee is effective.

3.2.2. The centralising effect of implicit reform

That effectiveness does not solve all the problems associated with tax compensations. Legislative tax relieves implicitly change the nature of local taxation. If we take the example of the housing tax (a similar mechanism is at work for the local business tax), the actual contribution of a household is limited by a ceiling which depends on income for contributors whose revenue is below a given threshold. The difference is taken in charge by the national budget. This system *de facto* implies that the housing tax gets closer and closer to a national income tax, in particular for half of the households from urban areas (Fréville, 2003). The reform does exist in a way, from a housing to an income tax, but only partially since it does not concern all households, and not *de jure* since legislative tax relieves do not change the tax base.

Expensive and centralising: (not) to reform the system of local taxation induces a significant cost for a national budget already tightened by excessive borrowing and deficit. It also decreases local autonomy whenever grants compensate suppressed local or reduced local tax bases. Now, the reform of local public finance is supposedly the task of the legislature. Having failed for complex "public choice" reasons out of the scope of the article, the recourse to the constitutional level has been somewhat efficient by defining the proper resources of the local public sector. It has also acknowledged the failure of the legislative process.

4. Dynamic assessment: The ongoing devolution and the extension of the perimeter of competencies

The initial instance of downwards subsidiarity is the First Act of decentralisation of March 1982. The assignment of prerogatives between the national government and the local public sector has been significantly changed, at least with respect to the French tradition. However, the following twenty years evidence an increasing discrepancy between transfers of competencies and transfers of financial means. Anticipating similar difficulties for the Second Act of decentralisation, the constitutional reform intends to prevent or at least cover the risk of excessive deficit for the local public sector.

4.1. Devolution and the risk of budget deficit

The First Act reassigns competencies to the *départements*: Social assistance (but not social security), the building and maintenance of first stage secondary schools (*collèges*, for pupils aged 11-14) and school transports. The *régions* are assigned the building and maintenance of second stage secondary schools (*lycées*, for pupils aged 15-18) and professional training. For each transferred competence, the reference is the national budget expenditure for this item during the previous year. The year of the transfer, half of this amount is covered by reassigned taxes (for the *départements*: Registration fees for legal transactions and a tax on vehicles; For the *régions*: Another tax on vehicles). The second half consists in grants, one for current expenditures, other ones for investment. In 1986, total compensations amount to 4.1 billions € for the *départements* and 1 billion € for the *régions*.

After the first year of the transfer, the respective evolutions of expenditures and revenues no longer necessarily match. Local governments take decisions as to what will or must be invested (with the associated current expenditures). On the other side, grants follow a

national indexing. The room for manoeuvre, at the local level, comes from the vote of rates, even if it is framed and constrained by law. As was hinted before, many investments are less strategic and optional decisions than they are more pragmatically necessary conditions for maintaining the quality of public services. This is particularly the case with the renovation and modernisation of *collèges* and *lycées*. In this respect, grants prove to be relatively inelastic, with the exception of VAT compensations. Concurrently, the devolved taxes bring a limited and fluctuating fiscal capacity. Departmental and regional assemblies then progressively shift part of the burden on the property, housing and local business taxes.

[insert figure 2]

Figure 2 describes the evolution of transfers from the central government to the local public sector for the period of the First Act of decentralisation (there had been an earlier devolution of prerogatives, namely social assistance to the *départements*). On the whole period 1979-2003, there is indeed a growing discrepancy between the transferred resources and the expenditures generated by devolution. The ambiguity of the process is that once prerogatives are devolved, the spending decisions depend both on structural outlays (for example, security requirements will cost a lot more than anticipated, particularly in the 1990s) and on strategic decisions (e.g. developing or not public school transportation). It is not easy to disentangle those two dimensions of expenditures.

During a first period (1984-1989), the situation remains relatively balanced. Increasing expenditures associated with depressed bases for the transferred taxes worsens the situation during the next period (1990-1995). The last period (1996-2003) shows a stabilisation of the situation. The suppression of one of the transferred taxes (the departmental tax on vehicles) is

compensated by a grant, which threatens tax autonomy if not budget balance. The evolution of expenditures is kept in rhythm with tax returns (but the reverse may also be true: Tax returns may determine expenditures).

The announcement of a new and ambitious stage of decentralisation soon prompts the debates on compensation. About 13 billions € are to be transferred, and the local public sector would like to get assurances that the disequilibrium evidenced by figure 2 will be avoided in the future. Since the legislative game is not necessarily viewed as an efficient safeguard, local politicians (or the "local part" of national politicians) have recourse to the higher constitutional level.

4.2. Constitutional safeguards and the coverage of the risk of deficit

The Second Act of decentralisation implies both some continuity with the First Act and reveals innovation with regard to the perimeter of prerogatives of the local public sector. In front of a potential risk of structural budget deficit, Article 72.2 intends to provide guarantees for a balanced devolution.

4.2.1. The Second Act of decentralisation

The Second Act broadens the perimeter of competencies by transferring prerogatives from the central to the local level, particularly at the departmental and regional levels. In 2004, the reform concerns the minimum income RMI (for the *départements*). From 2005 to 2008, economic development, professional training, social assistance, health, environment and culture will see many of their public policy prerogatives decentralised. First estimates evaluate the corresponding yearly expenditures to 3 billions € for the *régions*, 8.7 billions € for the *départements*. The functional allocation is 6.5 billions € for social and health

policies (from which 5 billions € for the minimum income); 1.1 billion € for economic development; 2 billions € for transport and infrastructure; 2.3 billions € for education and culture. The reform also concerns civil servants of the education (96 000 administrative and technical staff) and transport and infrastructure (33 000 employees) sectors. They will be paid and administered by local governments. In this quite revolutionary context, the constitutional reform intends to prevent the risk of excessive budgetary tensions for the local public sector.

4.2.2. The constitutional safeguards

The first step is the constitutionalisation of the compensation for the devolved prerogatives. According to Article 72.2, any transfer of competencies from the state to the local public sector is associated with an allocation of resources equivalent to those previously required at the national level. That guarantee provides an instantaneous safeguard for the first year of devolution: It states that a legislative act will provide resources whenever the extension of the perimeter of competencies implies an increase in expenditures. The constitutional provision helps avoid situations in which the local public sector would be granted prerogatives… and left with the task of finding the money for financing it.

The guarantee does work for the first year(s). However, once the competence has been devolved, local governments may have to face a possible discrepancy between the expenditures involved by the new prerogatives (think of the minimum income if unemployment suddenly increases) and their budgetary capacity if the latter is ill-designed or at least not enough responsive. In this respect, the constitutional principle of tax autonomy is meant to serve as an indirect but effective safeguard. Since proper resources must cover a "decisive share" of total resources, any preponderant financing by grants would automatically decrease the ratio of proper resources below the level required by the organic law following

Article 72.2. The Constitutional Council could not but declare the compensation unconstitutional.

It follows quite logically that the main source of compensation would come from the transfer of taxes or from a proportion of shared taxes. Let us see how this principle is implemented. The compensation for devolved prerogatives is mainly financed by the allocation of tax revenues in the framework of the *Loi de finances* (the law describing the national budget on an annual basis). A complementary source of financing is provided by the *Dotation Globale de Décentralisation* (decentralisation overall grant). More specifically, the *départements* will get a non adjustable share of the TIPP (interior tax on oil products). They will also be granted a special tax on insurance contracts which they will have the capacity to modulate. As to the regions, they too will get a share of the TIPP, and we will turn to them later.

In 2004, each *department* will have received a share of the TIPP that exactly corresponds to the amount of minimum incomes allocated by the state the previous year in that *department*. The compensation is thus complete for the first year of the reform. It also respects the constitutional principle and the organic law, or let us take it for granted for the moment. The following years, the current tax revenue of the TIPP will serve as the basis for calculating the share of each *department*, according to a fraction initially fixed. In this setting, the tax revenue of a *department* will depend on the national yield of the tax, and consequently on the national tax base. The disconnection with local rates or bases is complete. The local governments will not have any control on the tax revenue, either through rate effects or through base effects. The departmental share of the TIPP thus much more amounts to a grant secured with a national tax than to a local tax or even to a shared tax since there are no local

rates as such. At best, it is the revenue of the tax that is shared, but without any control (through rates or bases) by the local government. All this seems quite far from the definition of proper resources.

The new compensation for the transfer of minimum income competence has been decided after the adoption of the constitutional reform, but before the writing of the organic law. Under a strict interpretation of Article 72.2, this mode of financing would have been declared unconstitutional. It would at the same time have threatened the future of the Second Act of decentralisation. The organic law extends - stretches - the definition of proper resources by including "taxes of which law determines, for each community, the rate". In the present case, the base is national. The allocation of the revenue among the *départments* is interpreted as the distribution of implicit local rates applied to the national base, or as the local sharing out of a rate applied to that national base.

Under the pressure of the government, the organic law thus weakens the constitutional guarantee of tax autonomy by providing an extensive and quite inaccurate acceptation of proper resources. For all that, it does not give a better protection against the risk of budget disequilibrium. On the expenditure side, the evolution of the level of the minimum income and of the number of individuals who are eligible to it depends on factors that the *départements* do not really control. Parliament keeps deciding on those two variables, under the constraints of macroeconomic performances and political considerations. The local governments do not have much leverage if the economic situation worsens or if social assistance is increased. On the revenue side, since 2000, the rate of growth of the yield of the TIPP has been lower than that of GDP. The risk of unbalance thus cannot be ruled out. More generally, one may question whether the assignment of the prerogative of social assistance

has been a relevant instance of downwards subsidiarity but this is not within the scope of the present article.

As to the *régions*, they receive in 2005 a non adjustable share of the TIPP. However, from 2006 onwards, the tax base will become regional. Furthermore, after 2007 and if the EU accepts it, the *régions* will have the capacity to modulate the national rate (with lower and upper bounds). The regional TIPP will become a real "proper resource". The risk of unbalance will nevertheless remain, from both the expenditure and the revenue side.

5. Conclusion

The reform of local public finance is normally the task of the legislature. For a number of reasons, parliament has failed to achieve it. The recourse to the constitutional level can be interpreted as the search for a judicially secured stability. What was up to now mostly settled in parliament may henceforth end up before the constitutional court. It may be that the loose but practicable formulation of "free administration" in the 1958 constitution did not provide enough safeguards. The constitutional reform of 2003 may provide too many of them.

References

Fréville, Yves. 2003 "La taxe d'habitation est-elle encore un impôt local? (Is the Housing Tax Still a Local Tax?", *Les Rapports du Sénat*, n°71, Paris, Commission des Finances.

Gilbert, Guy and Alain Guengant. 2004 *Evaluation des effets péréquateurs des concours de l'Etat aux collectivités locales* (Assessment of the Equalisation effects of National Grants to the Local Public Sector), Paris, Commissariat Général du Plan, 2 volumes.

Guengant, Alain and Jean-Michel Josselin. 2005 "Central Government Grants to the Local Public Sector in France: Internal Adjustments to National Budget Discipline", *working paper CREM*.

Guengant, Alain and Jean-Michel Josselin. Forthcoming 2005 "La justice distributive en pratique: l'exemple des communes françaises (Distributive Justice in Practice: The Case of the French Communes", in Michel Mignolet (ed.) *Fédéralisme fiscal*, Brussels: De Boeck: 143-168.

Holcombe, Randall. 1996 "The Growth of the Federal Government in the 1920s", *Cato Journal* 16: 175-99.

Inman, Robert and Daniel Rubinfeld. 1997a "Rethinking Federalism", *Journal of Economic Perspectives* 11: 43-64.

Inman, Robert P. and Daniel L. Rubinfeld. 1997b "The Political Economy of Federalism", in Dennis Mueller (ed.) *Perspectives on Public Choice*. Cambridge: Cambridge University Press: 73-105.

Josselin, Jean-Michel and Alain Marciano. 2004a "Federalism and Conflict over Principalship: Some Insights into the American Constitutional History", *Constitutional Political Economy* 15: 281-304.

Josselin, Jean-Michel and Alain Marciano. 2004b "Federalism and Subsidiarity, in National and International Contexts", in Juergen Backhaus and Richard Wagner (eds.), *The Handbook of Public Finance*, Dordrecht: Kluwer Academic Publishers: 477-520.

Rose-Ackerman, Susan. 1981 "Does Federalism Matter? Political Choice in a Federal Republic", *Journal of Political Economy* 89: 152-65.

Salmon, Pierre. 2000 "Vertical Competition in a Unitary State", in Gianluigi Galeotti, Pierre Salmon and Ronald Wintrobe (eds), *Competition and Structure: The Political Economy of Collective Decisions: Essays in Honor of Albert Breton*, Cambridge, Cambridge University Press: 239-56.

Tannenwald, Robert. 1998 "Devolution: The New federalism – An Overview", *Federal Reserve Bank of Boston – New England Economic Review*, May/June: 1-12.

Winer, Stanley. 2000 "On the Reassignment of Fiscal Powers in a Federal State", in Gianluigi Galeotti, Pierre Salmon and Ronald Wintrobe (eds.), *Competition and structure. The political economy of collective decisions: Essays in honor of Albert Breton*, Cambridge University Press: 150-73.

Table 1: Fiscal autonomy of the local public sector

Table 1a: *Communes et groupements* (municipalities and co-operation structures)

Billion euros or % (line g)

	1998	1999	2000	2001	2002	2003*
Total revenue (a)	78.83	83.35	86.07	89.61	92.08	96.59
Borrowing (b)	7.09	8.14	8.61	8.54	8.45	9.03
Total revenue net of borrowing (c)=(a)-(b)	71.74	75.21	77.46	81.07	83.63	87.56
Tax revenue (d)	36.20	36.79	37.18	37.88	38.58	40.23
Other proper resources (e.g. user charges) (e)	7.94	8.01	8.45	8.72	8.71	8.78
Total of proper resources (f)=(d)+(e)	44.14	44.81	45.63	46.60	47.30	49.01
Ratio proper resources / total resources (g)=(f)/(c)	**61.53%**	**59.58%**	**58.91%**	**57.48%**	**56.56%**	**55.97%**

*: provisional (data from May 2004)

Source: our calculations from data of Direction Générale des Collectivités Locales and Direction Générale de la Comptabilité Publique

Table 1b: *Départements* (intermediate level of local government)

Billion euros or % (line g)

	1998	1999	2000	2001	2002	2003*
Total revenue (a)	36.41	37.96	38.00	38.96	42.43	45.69
Borrowing (b)	3.11	3.06	2.92	3.51	4.29	4.63
Total revenue net of borrowing (c)=(a)-(b)	33.30	34.91	35.09	35.45	38.14	41.06
Tax revenue (d)	19.85	19.80	19.64	19.09	19.80	21.07
Other proper resources (e.g. user charges) (e)	2.53	2.62	2.60	2.50	2.48	2.50
Total of proper resources (f)=(d)+(e)	22.37	22.41	22.24	21.59	22.28	23.57
Ratio proper resources / total resources (g)=(f)/(c)	**67.18%**	**64.19%**	**63.38%**	**60.90%**	**58.42%**	**57.40%**

*: provisional (data from May 2004)

Source: our calculations from data of Direction Générale des Collectivités Locales and Direction Générale de la Comptabilité Publique

Table 1c: *Régions* (higher level of local government)

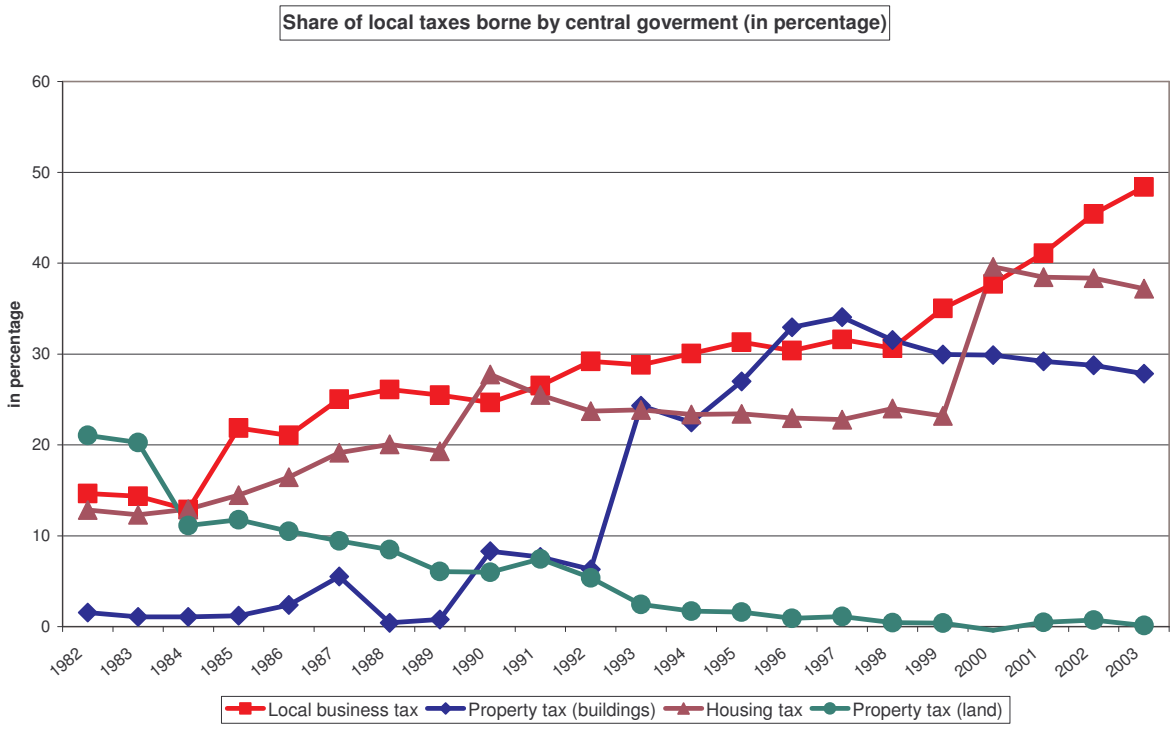
Billion euros or % (line g)

	1998	1999	2000	2001	2002	2003*
Total revenue (a)	12.12	12.69	12.97	13.71	16.35	17.19
Borrowing (b)	1.14	1.13	1.36	1.76	2.40	2.72
Total revenue net of borrowing (c)=(a)-(b)	10.99	11.55	11.61	11.94	13.95	14.47
Tax revenue (d)	6.33	5.63	5.83	5.00	5.08	5.02
Other proper resources (e.g. user charges) (e)	0.25	0.19	0.20	0.18	0.23	0.20
Total of proper resources (f)=(d)+(e)	6.58	5.81	6.03	5.18	5.31	5.22
Ratio proper resources / total resources (g)=(f)/(c)	**59.87%**	**50.30%**	**51.94%**	**43.88%**	**38.06%**	**36.07%**

*: provisional (data from May 2004)

Source: our calculations from data of Direction Générale des Collectivités Locales and Direction Générale de la Comptabilité Publique

<u>Figure 1</u>: Share of local taxes borne by the central government (in percentage)



Taxe professionnelle: Local business tax

Taxe foncière sur les propriétés bâties: Property tax (buildings)

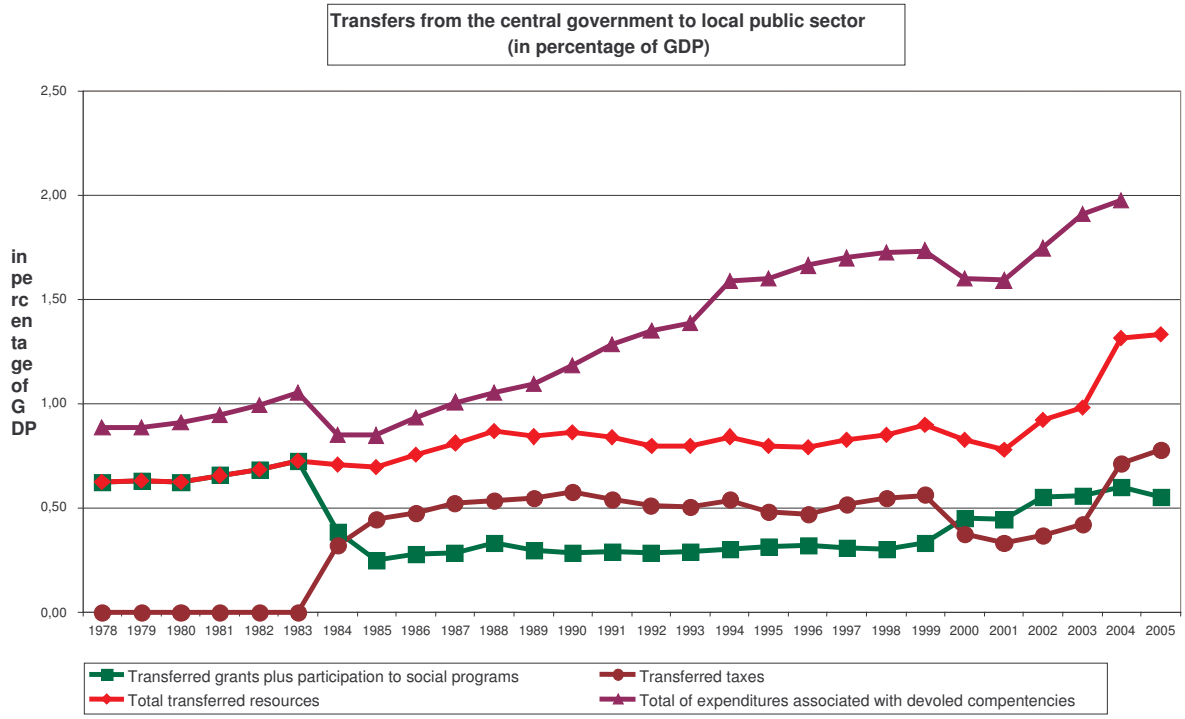
Taxe d'habitation: Housing tax

Taxe foncière sur les propriétés non bâties: Property tax (land)

Source: our calculations from data of Direction Générale des Collectivités Locales and Direction Générale de la Comptabilité Publique

<u>Figure 2</u>: Transfers from the central government to the local public sector

(in percentage of GDP)



Dotations transférées plus participations aux dépenses d'aide sociale: Transferred grants plus participation to social programs

Taxes transférées: Transferred taxes

Total ressources transférées: Total of transferred resources

Total dépenses nettes transférées: Total of expenditures associated with devolved competencies

Source: our calculations from data of Direction Générale des Collectivités Locales and Direction Générale de la Comptabilité Publique