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## TESTING DEVOLUTION: CHALLENGES AND INSIGHTS FROM THE FRENCH EXPERIENCE

### Public action on 'zero net artificialisation'

Most town planners have long warned of urban sprawl risks (Bruegmann 2005). Urbanisation has expanded since the 1950s in all countries where car use has become widespread. In France, the overall population density is low and urban planning powers were devolved to a large number of small municipalities in the early 1980s. The trend towards suburbanisation has been particularly intense and fragmented since (Charmes 2011; Dembski *et al.* 2021). As part of Europe's trajectory and France's international commitments (Desjardins *et al.* 2024), France's law on climate and resilience of 2021 sets out the objective of 'zero net artificialisation' (known as Zan) by 2050. By then, any new artificialisation must be compensated for by the 'de-soil sealing' of an equivalent land area. Between now and 2050, the Law already requires the rate of development to be halved for the years 2021-2031 (to around 125,000 hectares for the whole decade, nationwide) compared to the preceding decade (when just under 250,000 hectares were developed) (fig. 1-2). This law was passed in relative secrecy in 2021 by a Parliament that was perhaps unaware of its importance and consequences. Then, during 2022 and 2023, it became a major source of tension for local authorities in terms of housing. Why is this? Because everyone quickly realised that the law could not be applied to 'other things being equal'. Its implementation requires far-reaching economic, fiscal, architectural and social changes not anticipated by legislators, who thought they were simply regulating town planning. This is the nature of ecological transformation measures: they have an impact on other dimensions of the social contract, but these are rarely taken into account when a measure is decided because legislators, be they national or European, still think in silos. Devolution, referring to transferring competencies to local authorities under France's décentralisation laws, initially appeared to have been a solution for achieving 'zero net artificialisation'. It is indeed at the local level that new solutions can be developed, going beyond the simplistic logic that reducing the rate of development by half would require doubling the density of planned urban extensions. In Rennes, for example, local councillors are planning to separate the ownership of land from the

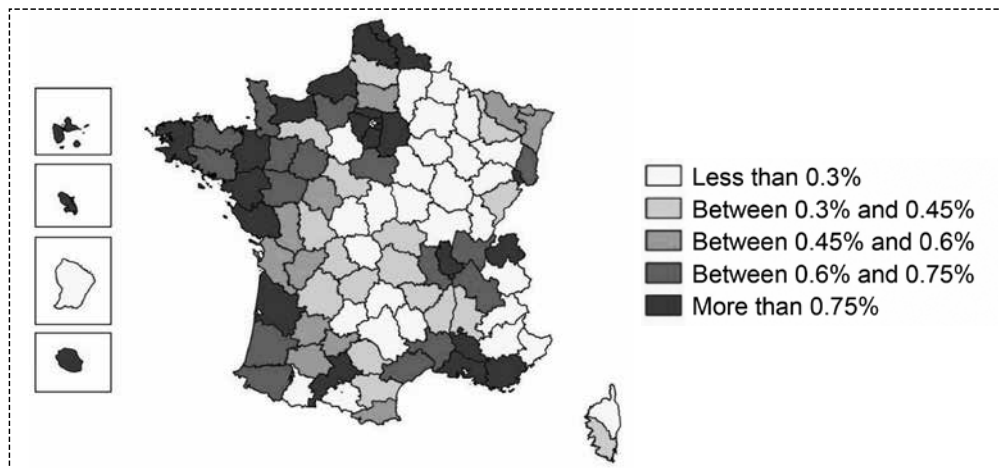
ownership of buildings to avoid increasing the cost of accessing housing (1). In the rural town of Blain, in southern Brittany, elected officials are examining how changes in mobility could limit the need for car parks. Otherwise, elected representatives everywhere want to use agricultural, industrial and commercial wastelands. In short, these examples demonstrate the ability of local players to embark on the transition in a particularly inventive way by revisiting ways of living, the design of public spaces, and the ecological relationship with land and property rights.

So, all is for the best? No. In fact, many elected officials are concerned about the reduction in the amount of land available for urban development. They fear that they will not be able to develop their municipalities. Local councillors often play on the pace of urbanisation to regulate the management of their public facilities, particularly schools: they open up space for a housing estate or launch a social housing programme to 'keep a class going'. Their fears of being partly deprived of this possibility are understandable. Furthermore, the system for burden sharing set out by the 2021 law has proved impossible to implement. It is a 'Russian doll system': the State (i.e. France's central government or *État*) tasks the regions with sharing out the burden of reducing land take between the inter-municipalities, so-called *Etablissements publics de coopération intercommunale* (Epci) entrusted with planning and carrying out coordinated activities (2). In these negotiations, the intercommunal bodies have only one aim: not to 'give away' more than others. A uniform reduction of 50% for all intercommunal bodies is, therefore, the direction in which most regions seem to be converging. Why is this? Because horizontal cooperation between local authorities barely exists. In the absence of a transaction procedure between local authorities, it is almost impossible to obtain compensatory agreements. However, local authorities could agree to different rates of transition in terms of land and energy: one authority could move more quickly to reduce the artificialisation of land because it has brownfield sites to recycle, while another could concentrate on developing wind energy because it is well exposed to wind and has landowners prepared to install masts on their land, in return for a higher right to build than the trajectory set out in Zan.

Other examples of possible transactions at the regional level exist. In the Pays de la Loire Region of western France, an agglomeration community of a small coastal tourist town, such as Les Sables d'Olonne, may find it very difficult to reduce the rate at which its land is built up (for numerous construction projects, housing needs for seasonal workers in the tourism and service

industries, etc.). On the other hand, reducing carbon emissions from mobility could be – relatively – straightforward: the area's topography and summer population peaks facilitate a policy that is very favourable to cycling and very restrictive for car traffic. A group of rural municipalities (or *communes*) in Mayenne is in the exact opposite situation, having little room for manoeuvre when it comes to changing mobility practices. Car use is virtually unavoidable due to its generally low population density and scattered settlement patterns in the *bocage* (3). Yet, with some agricultural and industrial brownfield sites and a sluggish demographic outlook, this community could quickly reduce the rate of land taken by recycling these sites. Wouldn't it, therefore, be in the interests of these two inter-municipalities, located in the same region, to agree on different but complementary trajectories in terms of both emissions and land use? The onus would then be on the region as a whole to ensure that the contributions of each municipality make it possible to achieve the region's ecological objectives and balance each other out in the end. However, at present, there are no forums or arbitration procedures to achieve such horizontal agreements between territories. So, instead, a uniform rule is imposed that blocks the inventiveness of local players, which we have seen can be fruitful. This results in fears and blockages that open the way to the most outrageous claims (Vanier, 2023). It has been said that the principle of progressive land sobriety condemns the rural world to death and medium-sized towns to glaciation (Olivier Marleix), or that it causes 'ruralcide' (Marc Le Fur), and so on. This climate of protest and anger has prompted the government to propose rewriting a new law adopted in July 2023. This new law maintains the ambition of reducing the artificialisation of land. But, to reassure rural municipalities with a local development plan but fear that they may not be able to consume any more land, the 2023 law guarantees these municipalities the possibility to consume a minimum of one hectare before 2031 (4). At present, 26,000 municipalities are covered by this 'guarantee'. This measure is absurd, however, as it undermines efforts at inter-municipal cooperation: for small municipalities, inter-municipal dialogue on town planning is no longer an issue, as they are guaranteed 'their' hectare. Even more seriously, it sends out the message that land consumption is the key to development, even though land recycling or the fight against vacant housing are far more promising ways of improving rural living conditions than the creation of a few detached houses or a small supermarket on the outskirts of a town with a desperately sad and empty historic centre.

FIG. 2, LA MAPPA MOSTRA L'IMPORTANZA DEL CONSUMO DI SUOLO ATTORNO AD ALCUNE GRANDI CITTÀ (IN PARTICOLARE PARIGI, TOLOSA E LIONE) E NELLE REGIONI DI RICHIAMO LUNGO IL CONFINE SVIZZERO, L'ATLANTICO E IL MEDITERRANEO / THE MAP SHOWS THE IMPORTANCE OF LAND TAKE AROUND SOME MAJOR CITIES (NOTABLY PARIS, TOULOUSE AND LYON) AND IN THE ATTRACTIVE REGIONS ALONG THE SWISS BORDER, THE ATLANTIC AND THE MEDITERRANEAN



In short, devolution in its current form is proving problematic, even though it should be a component of the ecological transition. Rather than backtracking on certain environmental ambitions, it would be better to elaborate on other relationships between the different levels of government.

### Towards a new devolution

The power distribution between the centre and periphery is very diverse in Europe. Some States are federal or quasi-federal (Germany and Spain). Other countries have powerful regions (Italy) or weak ones (France), with municipalities that may be very small (France and the Czech Republic). By contrast, some countries have quite large municipalities following vigorous mergers (Netherlands and Germany). While devolution has proved effective in the past and has been adapted to the needs of the time, the transfer of powers as it exists in Europe seems ill-suited to dealing with ecological issues.

Over and above the political and cultural issues that vary from one country to another, devolution in Europe was conceived to adapt the spatial deployment of the welfare state (Brenner 2004). It is present everywhere in many areas, including secondary schools, health establishments, housing programmes, public transport, retirement homes, energy networks, and public responsibilities for early childhood. It has become essential to give local authorities a strong capacity to influence the deployment of these basic facilities and local public services to tailor them to the specific characteristics of their area. In all countries, public action is broken down into 'competences', which are then distributed between various levels. In France, the *départements* are responsible for the building stock of middle schools (*collèges*) and the regions for France's high schools (*lycées*). Municipalities (*communes*) manage buses and trams, while the regions are responsible for trains and coaches. A Fordist division of public activities was thus set up between

the various levels of government.

Devolution has also been seen as a lever for local innovation and the emergence of new development models by stimulating local inventiveness in the face of the constraints of routine management, as well as both public and private bureaucracies. From 1990 to 2010, local authorities became key players in the emergence of the first environmental and sustainable development policies. Following the Rio Earth Summit in 1992, many local authorities embarked on Agenda 21 initiatives designed to help define urban ecology strategies. This has led to a host of local initiatives: renewable energy development projects, short food supply chains, eco-neighbourhoods, and so on. Implementing these projects has been made possible by local authorities, who are close to the people they serve and at a certain distance from the interests of major private company groups and the French State's technocracies, along with the compromises they often make among themselves. For example, the growing power of the regions and local authorities in the energy field has opened up a whole new range of possibilities. In contrast, the State was considered to be too close to the electricity & nuclear power industry or to the major oil companies (Poupeau 2013), which have often blocked innovation in the environmental field. The ecologist movement has been particularly in favour of devolution. Similarly, in the field of agriculture, the first local markets for organic or 'locavore' products emerged (5), driving a wedge into the productivist tandem formed by the State and France's main farmers' union (the Fnsea). Municipal teams, like the Mouans-Sartoux *commune* in the Alpes-Maritimes region, a pioneer of short circuits, have set up partnerships with farmers to supply school canteens or retirement home restaurants. They have acquired land to help alternative farmers or cooperatives set up and helped open shops to sell local produce. In the field of urban mobility, it is also thanks to the mobilisation of local teams that public transport

has developed strongly since the 1980s. Tramways, which now exist in 26 French conurbations, are undoubtedly a 'child of devolution' (Gardon, Mazoyer 2014).

But today, the challenges have changed, and the paradigm established over the last thirty years is no longer adequate to meet them. Firstly, the segmentation of skills is useful for rapidly deploying new facilities and services, just as the precise definition of the tasks assigned to each person is effective in a Fordist factory. But this is of little relevance when it comes to thinking about systemic changes involving several public policies at once and which cannot be reduced to the scope of a strict, legally defined 'remit'. Above all, to achieve the targets set for 2030 and 2050, local authorities must be more than just inventive: they must be able to make concrete commitments regarding their contributions to the transitions underway. As we have seen with the example of the artificialisation of land that local authorities do not have a normative framework enabling them to enter into discussions leading to contracts and firm commitments. This is where the horizontal negotiation approach, involving all the players, must play its part. We find a similar problem in the field of energy, in which France's regions have to implement a national strategy. They do so through their regional development plans (known as *Sraddet*). These schemes repeat, Russian doll-like, the same objectives as those of the State (Béhar, Czertok, Desjardins 2021). However, at no point have the regions formalised what their respective contributions set out in terms of France's future energy system. All analyses have been carried out by researchers, central government departments and environmental associations, with the regions generally refraining from playing an active role and making proposals. This is because local authorities see themselves only as 'serving their residents', which they undoubtedly do, whereas they should also be 'contributing to overall transitions'. Indeed, this is where they must also play

their part and not content themselves with a top-down approach alone.

To achieve this, the various stakeholders must be helped to understand their real capacity to contribute to ecological change and be provided with the appropriate means of action. A rural mayor in the Beauce area of central France does not have a great deal of influence over cereal farming, even though some of their constituents are cereal growers who run huge farms. Indeed, what weight does a small-town council have concerning European regulations, or the prices prevailing in international cereals markets or oligopolistic upstream and downstream markets? By contrast, when it comes to housing or even transport, mayors can take concrete actions. They can trigger a programme to renovate public buildings or even the local housing stock, provide charging points for electric vehicles or a car-sharing car park. In short, for each local player, it is important to set out the 'ecological liabilities' of their area, i.e. the nominal efforts to be made within their geographical perimeter to achieve carbon neutrality, with their own capacity for strategic action, including the leverage effects available to them (6). Unfortunately, assets and liabilities rarely overlap here. In some territories, ecological liabilities will far outweigh the strategic assets of local authorities; in others, on the contrary, assets will far exceed liabilities. Yet the aim is to obtain a 'balance sheet' equilibrium at the national and European levels.

It then becomes possible to construct a new architecture for transition. The various local authorities will be asked to state their respective contributions, how they intend to take part in the ecological transformation, what assets or capacities they intend to draw on, or, on the contrary, what handicaps and constraints they suffer from. The regional level would be responsible for bringing these communities together to reach a consensus on a satisfactory overall ecological target, taking maximum account of the constraints and capacities of all concerned. This is a more interesting way of looking at 'regional Cops' than is the case today (7). In the event of a persistent disagreement over the contributions of the various parties, or in the event of a manifest refusal (by a local authority that does not wish to take part in any change), it would be up to the State, through its local representatives, to issue an injunction against the recalcitrant local authority. This option should, of course, only be considered as a last resort in exceptional circumstances. Ninety-nine per cent of the respective contributions could be determined by a progressive alignment of the players at the regional level in the form of a 'consensus conference' (8). Subsequently, a Chamber of territories (Senate, *Bundesrat*, etc.) could then organise a national harmonisation of all these regional ambitions.

This Chamber should not confine itself to being a lobby or 'mouthpiece' for local concerns, which could quickly put it at odds with national and European objectives for ecological transformation. Instead, it should become a place where the ecological contributions of the various players and layers of public authorities can be linked politically. This would be a more exciting and interesting role. Last but not least, the European Parliament invites the member States to present their respective contributions to the ecological transitions set out in the *Green Deal*.

The ecological transition, therefore, calls for a new form of devolution. Since the 1980s, France's devolution has involved, on the one hand, the State offloading sectoral responsibilities (which are often costly and poorly managed, such as housing and secondary school real estate) and, on the other hand, local authorities that pride themselves on their grassroots inventiveness but complain about excessive standards and the lack of State funding. However, the State remains the 'insurer of last resort', and local authorities are sure to turn to it for help in financing their costly and sometimes inflationary responsibilities. This approach is favoured today yet creates a uniform standard that 'cascades downwards' from the European union to municipalities via States (i.e. central governments) and all intermediate levels and puts everyone on the same footing. By contrast, the aim here is to put in place a pragmatic and effective new system for coordinating relations between the European union, the member States and the territories, based particularly on clearly defined contributions. The above examples show that such coordination is possible by relying on programmes and general principles set out from above, along with the creativity and adaptability of local territories from below. This will allow a clear division of roles (9).

Setting the climate route to 2050 is left to the European level. But the methods of implementation are debated, negotiated, adapted and differentiated at the national and local levels, as well as across the diversity of economic sectors, before they are implemented. Such an organisation is a prerequisite to establishing genuine ecological transition contracts that commit all parties to common objectives.

#### Notes

1. The example is described here by Honoré Puil, vice-president of the Rennes Métropole [<https://www.lafabriquedelacite.com/publications/sobriete-foncier-e-et-acces-au-logement-une-nouvelle-equation-a-inventer/>].

2. The Epcis are distinguished between communities of municipalities, agglomeration communities and urban communities and rely on locally raised revenues for funding (Epci à fiscalité propre).

3. *Bocage* is a terrain of mixed woodland and pasture characteristic of parts of northern France, where pastoral farming is the dominant land use.

4. A right to build one hectare is maintained for all small rural municipalities (estimated at around 35,000) without density conditions.

5. A person whose diet consists only or principally of locally grown or produced food.

6. An atlas of rural areas shows the diversity of potential contributions to the transitions in rural areas. Depending on the transition paths, the respective positions of these areas vary greatly, depending on their potential in terms of energy production (nuclear and/or renewables), the mutability of their agriculture and industry, and the importance of tourism (Coopérative Acadie and M. Talandier, *Étude sur la diversité des ruralités*, Anct, 2023).

7. During the 'regional Cops' (launched by the French government in 2023), regions were invited to debate the territorial application of the objectives set by the State in terms of ecological planning. This was also a time for bringing together the local initiatives favouring ecological transition.

8. A *Consensus conference* generally refers to a series of meetings whose participants are ordinary citizens, promoted to gather opinions and deliberations on new or controversial topics in the scientific, technological and ethical fields.

9. [[www.espon.eu/sites/default/files/2024-06/no-net-land-take-policies-and-practices-in-european-regions-final-report.pdf](https://www.espon.eu/sites/default/files/2024-06/no-net-land-take-policies-and-practices-in-european-regions-final-report.pdf)].

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