Local Political Power or Public Servants? On the Development of Corruption in France and Some European Countries in the Last Decade.

by Jean-Paul BURDY
Maître de conférences d’Histoire / Senior lecturer in History
Chercheur au CERAT / Member of research centre CERAT
Institut d'Etudes Politiques / Institute of Political Studies, Grenoble, France
BP45  F-38402-Saint-Martin-d'Hères-Cedex  FRANCE
Phone: +33-476-82-60-00  /  Fax: +33-476-82-60-70 /  E-mail: burdy@iep.upmf-grenoble.fr

Summary: The disclosure of "corruption affairs" is an important component of the political crisis of the last decade in France, but also in other European countries (mainly in Italy and Belgium). Front politicians are going on trial or are in jail: former ministers, former M.P.s, former regional leaders, former mayors of large towns, and so on. Our paper for the Thematic Workshop on "Corruption and Ethics in the Public Service", intends to focus on the definitions of corruption in the French judicial and administrative system; on the main reasons of the development of corruption in the last decade; on the influence of the 1982 political and administrative decentralization laws on the increase of local political power, and thus on development of corruption inside local and regional government.

The paper will then try to answer the question of the involvement of public servants in the corruption process. It seems clear that the disclosed and judged corruption less implies basic public servants than elected political leaders, and their close public assistants: these are at the crux of political and administrative power. But a closer look shows that more numerous public servants can be directly or unwillingly implicated. Globally, the paper will stress the fact that corruption of both state and local public servants can still be considered as an unusual occurrence in France. Finally, the paper will briefly discuss the existing means of fighting against corruption: the necessity of a deontological education for the civil servants; the State and citizen confidence in the public service; the administrative and judicial institutions able to prevent and to fight corruption in the public services; the importance of the press and citizen monitoring on regional and local political decisions, and on the functioning of local public services; the importance of a common European attitude towards corruption and “black money”. This French point of view will thus try to offer elements for a comparative approach to the cases of Central and Eastern Europe.

Keywords: Public service, Corruption, Ethics.

Dr. JP. BURDY, born 1952, teaches History at the Institute of Political Studies (IEP) of Grenoble, France.

* Scientific position: Wrote a Ph.D. and papers mainly on Urban political and social history in contemporary France and Europe. Member of CERAT, research centre of IEP on "State, regional and local administration and public policies" (Research group: "Democratic Mutations in Europe"). Participation at the "International Conference of the Network on Public Administration", in St-Petersburg, Russia, 12-17 June 1996; Co-organizer of the “International Seminar on Public Administration” in Grenoble, 13-15 March 1997.

* Administrative position: In charge of the International Relations of the Institute of Political Studies, Grenoble, France. Cooperation programs on Political Science, Public Administration and European Studies in European Union (SOCRATES), Central and Eastern Europe (TEMPUS-Phare, TEMPUS-Tacis), with St-Petersburg (Russia), Minsk (Belarus), Bakou (Azerbaijan), Istanbul (Turkey), a.s.o. IEP has been Observer at NISPAcee, in association with Université Pierre-Mendès-France, Grenoble, France, since 1996.
Local Political Power or Public Servants? On the Development of Corruption in France and Some European Countries in the Last Decade.

Corruption affairs can be disclosed in most western democracies. In the last decade (if not before: we shall not discuss here whether it is a new problem or not'), corruption was (and remains) at the frontpage of newspapers in many countries. It implies various types of political and administrative systems: in France or in Greece, in Great-Britain or in the United States. In some countries, like Italy or Belgium, the very foundations of the political system have been shaken, if not drastically disrupted. The rigorist states of north-western Europe (mainly of calvinist or lutherian cultures: Netherlands, Scandinavia) are an exception.

We shall try to focus here mainly on the French case, to see how an old jacobine State is confronted to the problem, and deals with its results. But we shall also mention the Italian and Belgian cases. Globally, the paper intends to stress the fact that corruption of both state and local public servants can still be considered as an unusual occurrence in France. As in most of the Eastern Europe countries, it is necessary to distinguish the discourse of the public opinion on the wideness of corruption, and the actual practices. But some traditional regional practices; specific consequences of the 1982 and ensuing of decentralization laws; the initial lack of administrative control of the newly decentralized regional and local powers; the incentive pressure of some market actors during the allocation of public service contracts; the increasing sums involved in the large building contracts: all these factors led to a significant development of corruption among some political leaders and a few public servants. These discovered affairs first led to an effective political crisis, and then to the development of new means of fighting corruption.

I/ The definition of corruption and “corruption affairs” in France

1-1/ The disclosure of "corruption affairs" is an important component of the political crisis of the last decade in France, whose main expressions are: the increasing rejection of the political class; the increase of vote for the far right National Front; and the growing importance of the so-called “fifth power” -Justice. Front politicians are going on trial or are in jail: former ministers, former M.Ps, former regional leaders, former mayors of large towns, and so on. The case study of Grenoble, an especially dynamic city in the recent decades (and whose 400000 inh. are considered as hard to please), can be considered as exemplary: the town's former right wing mayor (1983-1995), also former elected M.P. and state minister, but still acting president of the "Conseil général du Département" (Department assembly) is serving a four-year jail sentence after a significant trial on a corruption affair implying French industrial firms, local politicians and close civil servants. Globally, the corruption affairs imply half a dozen top political leaders, and a few tens of local and regional heads, among which numerous politicians from Paris and the region of Paris. We can there stress the fact that these top political leaders are never implied as national leaders, or state ministers, but because of their regional or local political activities: which allows to focus on the main level of corruption in France.

Page 2
1-2/ The definitions of corruption in the French judicial and administrative system.

The French law defines various types of corruption as the use of public or private resources for improper and illegal private ends:
- active corruption (the fact of corrupting) can be sentenced up to 10 years in jail, and fined $200000;
- passive corruption (the fact of agreeing to be corrupted) can be sentenced up to 10 years in jail, and fined $200000;
- the offence of interference (“délit d’ingérence”: to take advantage of being at an important political or administrative position to enjoy advantages, for ex., to get a large flat with a low rent; to use private airplane without affording the cost of the hire);
- misuse or receiving of a company properties (“abus et recel de biens sociaux”: for ex., having improvements in a private home paid by the company you own): many company top managers are on trial because of this nowadays in France, but also in many western states.
The corruption being a hidden practice, the corruption offense in France lapses three years after the disclosure of the facts (in other cases, the offense lapses three years after the compliance).

1-3/ The Italian “mani pulite” campaign, and the Belgian “partitocratic corruption”

More or less, the definitions and the situations can be compared to the French ones in most the countries of the UE. Italy has been the most accomplished example, with the decimation of the traditional political group (mainly christian-democrats and socialists): two thirds of the MP haven’t been reelected in the last elections, most of them being accused of corruption by the judges of the “mani pulite” (“clean hands”) campaign. “Mani pulite” revealed that the Italian corruption system was organized, since a long time, through a strong “partitocratic” system. A percentage was systematically drawn out from every invitation to tender (“appel d’offres”), and from every official contract. This percentage was then dispatched through an amicable partition between the parties. This procedure reflected the unofficial sharing out of the political power that begun as soon as the end of the fourties, but increased in the last two decades (the sharing of the RAI, Italian Radio and Television was quite astonishing). And it implied logically connections with the various regional or national mafias. In this Italian situation, the civil servants’ dependency upon the political parties was an obvious fact, at all the levels of the administration. Belgium also offers an achieved example of “partitocratic corruption”: the rewarding of supporters by the power-sharing parties, mainly through official jobs allocation in the state public administration or in regional and local agencies.

II/ Political and administrative decentralization and the development of corruption

2-1/ Clientelism: classical patronage system, or corruption?

Some French regions (mainly in the southern part of the country, and in the island of Corsica) can be considered, through a long history, as socially and politically structured by “clientelism”. Corruption can there be considered as a functional way of dealing with social relationships, and mainly in the public jobs allocation: it is a patronage system in which the man to man relation, and the family ties are more important and efficient than a weak or remote State. In fact, this way of acting is common to all Mediterranean countries, on both sides of this sea: it existed in the Roman
Empire, and is usual in the Near East or in Northern Africa. This traditional “clientelism” is on the decline in the Western Mediterranean countries, mainly because of the job shortage. As a social and cultural cause of corruption, it can be rather easily distinguished from new forms of political corruption.

2-2/ Economical, political and ideological origins of the growing of the corruption

In some countries -and it is typically the case of France, the too close relations between public activities in the field of economy (State owned companies and banks), and the private sector (through the interpenetration of the the managers: many top managers in France are or were public servants, coming out from the “Grandes écoles”: Ecole nationale d’administration, Ecole Polytechnique, etc.) is a factor of potential corruption: top managers and top civil servants know well each others; some managers were in charge, as civil servants in various ministries, of the monitoring of the bank system or of the state-owned companies, which were further privatized, etc. In France, this problem is called “pantouflage” (something like “slippering”): the “pantoufle” (“slipper”) qualify the possibility, for high ranked civil servants, to join private firms, because of much more high wages than in the public service. This moving is codified: the civil servant must wait for five years before joining a private firm he had to deal with, or control, as a civil servant. A deontological commission has been established in 1995, in charge of appreciating the propositions of “pantouflage”: its conclusions are very seldom negative, even when the crossing of some civil servants could be discussed. We are not here in direct financial corruption, but in a “grey zone” of inappropriate attitudes”, in the field of a potential moral transgression of the professional ethics.

Some ideological factors prepared a free road for black money and for corruption of political staff and of some public servants in the last decades:
- the crisis of collective morals, which were a brake to “crazy money” and to the “golden boys” model, drove to a rather general deterioration of previous social ethics-related values;
- the fact that the left wing parties, which were for a very long time far from the political power, tried to demonstrate, when gaining the power in the eighties (in France, Spain, Greece, for ex.), that they were as able as their right wing competitors to manage economy, to “make money” and profits;
- the ideological ultra-liberalism of the Reagan’s or Thatcher’s period drove to deregulated economic systems, where the states’ control of the globalized financial floods sometimes nearly vanished. This free market ideological reorientation often argues on the limitation of the state power, as well as on the decreasing number of civil servants to the profit of private interests.

The growing cost of political activities began with the development of television and of political advertising in the seventies. In France the political parties are weak because of the lack of militants, because of the few relations they have with the trade-unions, and because of their updated management. That is why they needed in France -but it can also be considered as true for most south-western States of the EU- more and more money for the political activities: this money could only come from the private companies, they had to deal with when contracting public bids. Till the middle of the eighties, public contracts at the levels of the communes or departments where closely watched on by the State ministries and their representatives (mainly the prefects: “préfets”). But this situation was completely called into question by the decentralization laws in 1982.
2-3/ The 1982 French political and administrative decentralization laws

The influence of the 1982 political and administrative decentralization laws on the development of corruption is rather obvious: there is here a system-related cause. These laws have created an independent political power in the regions ("Conseil régional"), in the departments ("Conseil général") and in the municipalities ("Conseil municipal") (ii). They also transferred three quarters of the State investment budget to the regions and departments. Before 1982, the Napoleon jacobine tradition defined the local political and administrative life. The actual political and administrative power was the State’s one, through its representative in the departments: the prefect. His administration had a strong power of monitoring all the political and administrative decisions of the mayors, presidents of the “conseils généraux” or “conseils régionaux”. This monitoring was a priori: neither the elected politicians, nor the public servants had much freedom to act under this control process. Thus, the regional and local political powers were used to a close control of the State through its representatives.

Since the decentralization laws, that can be considered, from a theoretical point of view as an increase of democracy, the monitoring is a posteriori, and has been clearly lightened. In the same time, public authorities at the local or regional levels were encouraged by the State and by their electorate to a more important intervention in the fields of economic development to fight against unemployment. Both these elements opened the door to many temptations: some elected local and regional (if not national) politicians began to consider themselves as contractors or company managers, unable (or unaware) to distinguish between public service and private projects. The change of the decentralization laws have sometimes be understood as an opportunity to get both more political power and get more money for political action, but also to increase private income. The close links between the increase of local political power, and the development of corruption inside local and regional government is quite evident in many corruption affairs. Everyday, new examples of the wasting of public money by local authorities for their own profit (collective one, or more private one) are disclosed.

There is here a French specificity, because of a initially poorly controlled evolution of the jacobine tradition. The situation is rather different in countries were the central State has always been weaker, and the regional or federal government an actual practice. It seems rather evident that the French politicians -or some of them at least- haven’t understood that the decentralization was not necessarily the opportunity to misappropriate public money toward either their political party, or toward themselves in a process of personal enrichment. Comparing France and Italy, if the corruption affairs are revealed in the same period, it appears that the growing of corruption has been more late in France, less systematic, and unequally dispatched, politically and geographically. The jacobine tradition, the strong State control procedures, the ethics of public service in the State or local bureaucracies, remain a efficient administrative and cultural background that prevented the development of corruption.
III/ The involvement of public servants in the corruption process.

3-1/ The question of the involvement of public servants in the corruption process

In Italy, “mani pulite” revealed an old and global corruption system, both implying political leaders and civil servants. In Spain and in France, where the situation can be compared since a decade at least, it seems clear that the disclosed and judged corruption less implies basic public servants than elected political leaders, and their close public assistants (who can be either private advisers or public servants); these are at the crux of political and administrative power. The figures are rather low of corruption implied civil servants in France: a few hundreds on many millions come every year either on trial in public courts, or in more secluded disciplinary committees of State administrations. These committees have do deal mainly with civil servants who have specific powers: some police officers (with foreign and sometimes illegal immigrants), some custom officers (for obvious reasons), some servants who can “sell” something (driving licenses, for example). These are classical examples of “low level corruption”, or “petty corruption”, implying mainly State civil servants, on whose the administrative watch is strong and efficient. But new situations followed from the global evolutions we quote a little earlier in this paper, and seams more interesting for our discussion.

3-2/ A de facto involvement of some public servants in the corruption process

A closer look shows that more numerous public servants can be directly or unwillingly implicated in the corruption process, than the low classical figures. And as the disclosed corruption affairs imply political leaders as local or regional political elites, the potentially implied civil servants could be local and regional ones. This involvement is a consequence of the various ways of corrupting attemps. We shall not discuss here of the large international contracts (oil or arms trade, plant works...), the winning of which often (if not ever) implies the payment of commissions. Many examples in France as in other Western Europe States shows that the political parties take a part of these commissions: this form of corruption seldom concern civil servants, and never local or regional ones. But two fields are more noticeable in France.

The signing of public contracts is a very sensitive moment in the corruption processes as revealed in the last years. It appears in almost all the corruption affairs in France, implying either political parties, political leaders or public servants. The juridic procedures for these public contracts are very rigorous. But in many “affairs”, these procedures have been bypassed by some political decision makers, to favour friendly contractors, able or willing to give backhanders. This situation occurs mainly in the building contracts for town planning or municipal housing, for new commercial centres or for maintenance contracts (central heating supply, house renovation...). In the past, the bids for these contracts were scrutinized a priori by the prefectoral administration; since the decentralization laws, the control is a posteriori, and much more difficult, because of the increased political and administrative powers of the local and regional authorities. If the public contracts commissions are chaired by elected politicians, it is impossible for civil servants not to be implied in the preparation and development of the bypassing of the regulations: the corruption can there be moral or effective. Many affairs concerning the “Ville de Paris” (whose mayor was the acting President of the Republic Jacques Chirac for almost twenty years), or the “Ville de Grenoble” (whose former mayor is in jail), or “Conseil général de l’Essonne” (a department of the Parisian suburb) are under investigation in this field: high ranked civil servants are liable to come on trial in the coming months, because of their silence, if not their active collusion with the law
bypassing.

Another key place for potential corruption are also the so-called "Sociétés d'économie mixte": these "SEMs" are public-private joint companies. They are organized by municipalities to manage former municipal services (transportation networks, water or gas supplies, economic development offices...) with private companies, following the private market criteria. Local public servants can thus become, to some extent, semi-private salaried employees of these "SEMs". The awarding of the semi-privatization of municipal services, and the appointment of the staff of these SEM are privileged poles for corruption either of political leaders, or of a small number of key positioned public servants. An official report on the SEM recently wrote about the “free political and economic zones”... It appears that the waking of the public services’ field made the corruption possibilities easier in the last decade.

In the French system, corruption can thus imply mainly civil servants who are appointed as political cabinets members, or close to these cabinets. Appointed and dismissed by elected politicians, they belong to politized top layers of the civil service: but they can go back to their former administrative hierarchy when dismissed, in most cases with a significant acceleration of their career.

IV/ Coping with corruption and promoting ethics in the Public service

In the EU, the weakening role of the central State, the increasing economic (and mainly financial) powers, the development of various transnational mafias and the privatization of public services, are more or less opened doors for the development of corruption of both political leaders and of public servants at various levels. The European surveys concerning corruption indicate that the French situation we focus on here can be found in many other south-western European countries; the level of corruption of civil servants depending both of the wages level (the lower the wages are, the most important the temptation is: Eastern Europe is a good example on this point); of the State political and juridic actual powers and their evolutions; and of the professionalism and ethics of the various groups of civil servants.

4-1/ Administrative and judicial control

The internal administrative and disciplinary control mechanisms are well organized and efficient in France. Each ministry has its own “Services general inspectorates”, whose members (senior top civil servants, directly depending from the minister) are able to carry out general or precise audits, or specific investigations into the bad functioning sectors of the administration.

Moreover, the French “Cour des comptes” (an independant financial national court) investigates, each year, various State administrations it chooses itself, and delivers its Annual Report to the President of the Republic: the most important scrutinized cases are widely published in the French papers. Till 1982, this court also had in charge the local and regional administration. The decentralization laws of 1982 left a gap for a few years. The "Chambres régionales des comptes" are the regional level of the national “Cour des comptes”. They only became efficient at the end of the eighties: this delay between the effective political and administrative decentralization, and the good working order of the “Chambres régionales des comptes” is an explaination of the development of corruption at the regional and local levels in the middle of the eighties.
The internal administrative controls (either ministerial ones, or of “Cour des comptes”) can open onto external judicial inquiries. The examining judges (“Juges d’instruction”) can either be submitted cases by the administrative magistrates, or receive complaints from citizens about presumed bribery cases. In the last decade, and especially towards the beginning of the nineties, the increasing role of these so called “small judges” is quite an important evolution of the French situation in the field of the intercourse between judicial power and the political one. We can thus estimate that the current legal frameworks are nowadays effective to deal with corruption, even if they have been inefficient to prevent bribery of “big fish corruption” in the last decades, because of the political situation, and the administrative change due to the decentralisation laws.

4-2/ Ethics in the Public service

We have stressed the fact that in all the quoted examples, the local and regional civil servants are not at the centre of the corruption process, whose main actors are the corrupters (the private firms) and the corrupted (some politicians). These civil servants are, in most case, witnesses of the process, and sometimes minor participants. In the case they are witnesses, a difficult question to answer for them is: how can I denounce what I witnessed, and not loose my job in the commune or in the region, whose political leaders manage the corruption process? Recently, French civil servants professional journals raised the question, and found hard to answer to it. The civil servants are often caught between their duty of obeying their political managers (and their political cabinet advisers), and their ethics as professional servants and as citizens. Their position is uncomfortable between compulsory obeying, professional secrecy, and the unwritten law of honesty towards the employer.

The fight against corruption among the local and regional civil service thus implies that the civil servants keep written documents of the orders they receive, of their own decisions; carefully appreciate the documents they are asked to sign and implemente; follow the advices of the prefect or of the “Chambre régionale des comptes” on ambiguous administrative files where their probity can be disputed; be attentive to the administration’s users critical remarks. All these requirements can justify that a national official Commission for preventing corruption underlined in 1992 the necessity of developing both deontological initial education, and a regular mobility among the civil servants: deontology, clearness, control and repression were the four words that concluded the report.

It also implies that professional ethics are a full part of the curriculas in the civil servant’s training process, either during the initial formation for newcomers, or during the in-service training, or re-training. Specifically, the public administration reforms measures must be clearly explained to all civil servants, as well as the implications of the procedures’ legislative evolutions which are part of the decentralization and privatisation processes. We can thus appreciate the fact that many French administrations have either renewed existing codes of conduct, or written ones when this type of code did not existed. The teaching of ethics was first considered as necessary in the business schools (Ecoles de commerce, Ecoles de gestion) which, in France are not connected with administrative management (as they are in the United States, for example): the American influence was clear in this addition to the business schools curricula in the middle of the eighties. But a little later, this teaching of ethics was introduced in the curricula of most schools of Public management (Ecole nationale d’administration, to quote the best known). It contains both general principles, and precises descriptions related to the working field of the civil servants: public law, administrative
codes, and ethical/moral dilemmas examples. But it seems also evident that ethics must be assumed by political leaders: it is a clear requirement for the resorption of politically counterproductive corruption.

4-3/ The importance of the political environment

The fight against corruption also requires:
- that the State do not resign in the exercise of its traditional powers and authority, specially on the public services (one of the conditions being that the wage level remains attractive for the applicants); and that the State tries to maintain the non-politisation of the civil service, either at the national, and at the local and regional levels;
- that corruption is no longer born by a majority of citizens: it is a clear situation in France, Italie, Belgium and in most western countries. The citizens must exercise, through their associations and a free press, and implement in the daily political and administrative life, their right to control the political decisions (it was one of the first principles the French Revolution underlined!). This citizens’ control on the decision-making process clearly depends on the maintained confidence in the “general interest”, and on the contribution of the civil servants to this interest through their efficiency and their ability to develop the modernization of the administration;
- that the “fourth power”, i.e. the press play a positive role in looking for openness and disclosing corruption affairs, but avoid to use corruption mainly as a way of selling copy: the French national daily and weekly papers are more efficient in the disclosure than the local or regional press, which avoid to take the initiative any in this field, because of its sometimes too close links with the local or regional politicians;
- that the so-called “fifth power of justice” can operate at a European (and even worldwide) scale.

Conclusion: a European debate

In 1994, thirty five; and again in October 1996, seven anti-corruption judges met in Geneva to discuss the judicial, but also political ways of fighting corruption in Europe. Their conclusions (a.k.a. “The Call from Geneva” for the 1996 meeting) were at least rather pessimistic, considering: the financial power of black economy in the world (drugs, arms, ...); the globalization of economic systems, and the speed of financial worldwide circulations, overcrossing all national boundaries; the political power of various mafias in the world, some of them having the control of entire States; the difficulties for “small judges” to obtain the assistance of their foreign colleagues, because of political and national judicial obstacles.
As corruption appears as an actual obstacle to democratic governance, a political and legislative contribution of the European Union to the debate thus seems urgent, and should be brought to completion before the widening of the EU to Central and Eastern Europe.

Footnotes
The historian can write a long paper on more or less well-known corruption affairs in the field of politics: for the sole French example, see, Yves MENY, *La corruption de la République*, Paris, Fayard, 1992.

These administrative levels are not new ones: communes and departments were created during the French Revolution; the regions at the end of the fifties: but they were in strict dependency on the prefectural or ministerial powers.


---

**Short selected bibliography:**


*La corruption dans les démocraties occidentales*, *Revue internationale des sciences sociales* no 149, septembre 1996.


*La corruption dans la vie publique*, Paris, PPS no 779,., La Documentation française, janvier 1997.


Mission interministérielle d’enquête sur les marchés publics et les délégations de service public, *Rapports annuels d’activité* (non publiés).
