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COMMODITY TOWARDS COMMON GOOD. THE USERS AND NGO'S INVOLVEMENT IN WATER UTILITIES IN EUROPEAN UNION (study cases in France, Italy, Romania).

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Several reports and researchs show that urban utilities are often provided by Public-Private Partnerships (Argento and al., 2010). However, the municipal management dominated in european countries in water utilities at the beginning of 20th century (Pflieger, 2009). The PPP management considers the water utilities as commodities for a end-consumer ; thus we ask the continuation of water utilities status as a *public good* for a community including water resources users, not only for utilities consumers. More precisely, the water supply service can be considered as a commodity, submitted to public regulation ; but its material base is a public good, non expendable, singular and tightly lied with a common resource and hydrological cycle (Bakker, 2007). We can relate the water utilities status with the *common pool resources* notion, used about natural resources regulation (Ostrom, 2010). How utilities users can assert this common good status by their claims ? Wich collective organisations can support this social standpoint ? Are the municipal reclaims sufficient to promote such process ?

The question is really a topical issue in Europe while citizenship and public objections are growing against private owners. Firstly, the european directives principles (user-pay, full recovery pricing, standards confomity, general economic interest) can be related with the importance of private providers in territory equipment and urban water management (Bauby, Similie, 2013) ; the consumer-subscriber take over from the user-citizen (first part). However, some « weak signals » or crucial actions aim at the acknowledgement of water utilities as a common good (Baker, 2007 ; Motta Sarah C., Nilsen Alf Gunvald (eds.), 2011 ; Massaruto, 2012). It arises thought local or transnational associations – some social NGOs - and coalitions between citizen groups and public authorities (second part). A short last part will fast discuss if the current municipal reclaiming trend in water services is an opportunity to introduce a common good's management (Kishimoto, Petitjean, 2017).

The argument of the paper is based on a specific survey (around sixty interviews), crossed with an academic follow up concerning water utilities governance in France and Europe (Hellier, 2018). The data were collected in three urban areas, between 100 000 and 250 000 inhabitants for each of them : Arezzo (Italy) and Suceava (Romania) explored in 2017 ; and several middle-size towns in France since 2005, in particular Dijon (Burgundy) and Rennes (Brittany).

1. Commodity, european principles and PPP

Firstly, we highlight that water utilities have to match an economic balance in the frame of SIEG (general economic interest service). This economic principle allows the consolidation of PPP in water utilities management. Thus, the european directives principles (user-pay, full recovery

pricing, standards conformity, general economic interest) can be related with the importance of private providers in territory equipment and urban water management (Bauby, Similie, 2013) ; the consumer-subscriber take over from the user-citizen.

The european process for utilities is now well known. The key concepts are the economic général interest utility and some ambitious quality norms for public health and ecology (aquatic environment) (Lupton, Bauby, 2008). This process is based on dialectic between the national rules and laws of each member state and the integration of european references and norms in national policies. In other words the trend we observe look like an « adoption-adaptation » dynamic about the european rules. This is a bargained and non linear process, notably in latest members states of Eastern Europe.

As a result, the economic dimension of water utility management can be antagonist with the social equity target. The citizen involvement can include the second concern while he is a consumer or a end-user too.

On the one part, the 9th article of the Water Framework Directive 2000/60/CE in october 2000 states the necessary recovery cost by prices since 2010 ; this principle is available for all kinds of users for supply water (domestic, industrial or agricultural users). The level of recovery is considered as an indicator of « good management » (Loubier, Gleyses, 2011). The practice of public subsidy is frequent in OECD countries (Firmann, 2014) while several countries implemented the recovery costs principle before the Water Framework Directive order. In European members states, applying this principle lead to rising prices especially with stronger norms of waste water treatment and rejects in 1990-2000 (Strosser, Montginoul, 2014). In this respect, water suply user is a end-consumer face to the water extraction and transportation.

On the other part, water access is a human right stated in this text of the Council Minister of European Union in 2001 : « each citizen has to access of water quantity sufficient for his essential needs ». In France also, the third article in Water and aquatic environments law (2006) stipulates that « each citizen has to access of drinking water for supply and health practices as far as collective sustainability of economic conditions ». Furthermore, the introduction of Water Framework Directive specifies that water is not a commodity as others (Bauby, Similie, 2013). Generally, the payement for water utilities access is a strong issue regards to human rights. Thus many NGOs contest the economic processes executed through privatisations and private owners management. They highlight the main aspects of « not-for-profit » ans water rights particularly for South countries people (Motta, Nilsen, 2011). Local public services are based on the crossing of management's interests and public accountability to protect the consumers (Argento *et alii*, 2010).

All in all, free access is not included in the french and european texts, a single management model neither ; however, public authorities have to search social equity face to this chargeable commodity, particularly through the price control and the modulated tariff.

A literature review and a study of specific documentation was necessary to prepare the surveys. For example, the annual reports on water utility prices, sustainability, and quality provide useful public information tools at the local level (Nuove Acque, 2016; SPL Eau du Bassin Rennais, 2016). This paper draws on empirical datas of several surveys. We drived a long survey, in France mainly since 2003, and two other European countries (Italy and Romania) during two Erasmus missions in 2017.

About sixty semi-directive interviews with public owners, private firms, and users' organizations were conducted face-to-face in France and Italy (by written responses in Romania). The main questions related to management approaches, cost structures, and cooperation with stakeholders to improve service quality. A sizeable majority of interviews were with agents and managers responsible for water services in France, and with local politicians (Rennes was one of five

agglomerations surveyed in 2011; <https://tel.archives-ouvertes.fr/tel-00772279/document>.. Lastly, the analysis is based on ten years of information gathered by sitting on scientific committees as the Environmental Scientific Council of Brittany from 2010 to 2013. We attended research reports and took part in working meetings and discussions with practitioners as well as with environmental and user associations (for example, a debate with the Association Legambiente in Arezzo in February 2017).

The decision to consider three case studies stems both from the research topic and the methodology. The aim is to compare located processes, rooted in specific institutional regimes. It is hence appropriate to analyze only a limited number of case studies.

France and Italy were chosen for having followed fairly similar trajectories in water utility management, but over different timeframes. Some relevant studies have already compared France and Italy (Crespi-Reghizzi, 2013) or else examined the scenario in each of these two countries (Breuil and al., 2005), explaining the institutional framework and the history of water regulations up to the present day. In France, water utilities were transferred to private firms in the 1980s and 1990s, at the same time as responsibility for water utilities was handed over to inter-municipal structures. In Italy, private-public owned companies were set up in the wake of institutional reforms in the 2000s. This shift is characteristic of the trend towards Public-Private Partnerships around the world in the 1990s (Kanakoudis, Tsitsifli, 2014). The infrastructure system changed too, with the closing of polluted abstraction points, concentrating of production at just a few points and linking up the networks (Lupton and Bauby, 2008).

Romania is member state of the European Union since 2007, while France and Italy were founding members of Economic European Community in 1957. Institutional structure in Romania is centralized on state level ; administrative medium levels are not powerful in water utilities régulation : the regions of development are created for structural european policy since 1998. The departments (Judete) are the local drivers with own institutions since 1968 ; they play a bridging role of central state. At last, the municipalities and the towns provide the ordinary management of expenditures because of the lack in economic resources (Cristescu, 2004 ; Dragan, Neamtu, 2007).

The public-private partnership in management water utilities is frequently observed within these three countries, in particular for important cities. In France, water supply is delegated towards private firms for two thirds population. In Italy, some mixed companies manage water services in major cities as Roma (ACEA, 51% Roma municipality, and private stockholders as Suez) or Florence (Publiacqua 60% municipalities 40% Acque Blu Fiorentina, e.g. consortium ACEA with Suez). In Romania, most of 1 000 water supply owners split into four classes: municipal utilities, public establishment, commercial structures (municipal majority in stocks), concession agreements with a private firm (in Bucharest for example) (Office International de l'Eau, 2007). Rennes (250 000 inhabitants) is a symbol of delegation agreement of drinking water utilities; since 1882 to 2015, Compagnie générale des Eaux (Veolia today) managed the operation and the customer service for the main municipality and several municipalities around. In Arezzo (200 000 inhabitants), the integrated service of drinking water and wastewater treatment (Servicio Integrato) is supported by Nuove Acque, mixed company within the municipalities own 53% of stocks ; the last 46% are Suez et ACEA stocks. At last, in Suceava (100 000 inhabitants), the intermunicipality devolves utilities management to ACET SA company, that is Suceava municipality's property for 63,8% of stocks since 1998 and afterwards a municipal structure created in 1912. Its utilities panel extended towards water supply, waste water treatment and public light. This public company became an OR, regional operator, in 2005.

However, some « weak signals » or crucial actions aim at the acknowledgement of water utilities as a common good (Baker, 2007 ; Motta Sarah C., Nilsen Alf Gunvald (eds.), 2011 ; Massaruto, 2012). It arises through local or transnational associations – some social NGOs - and coalitions between citizen groups and public authorities.

2. Water utilities towards a common thanks to ONG's involvement ?

In the European Union, water supply takes place into the utilities with a general economic interest, that consider the commodity and the consumer through the balance between costs, prices and performances. This commodity view is specified in the Dublin Principles (1992) and in the Hague Statement. In France, it's a public utility with industrial and commercial characters. « The term "commodity" refers to a property rights regime applicable to resources, and human rights to a legal category applicable to individuals » (Bakker, 2007, p.7). Bakker suggests the commodity is used as a antagonist concept face to « common » concept : « The more appropriate, but less widely used, antonym of water as a "commodity" would more properly be a water "commons" » (Bakker, 2007, p.7).

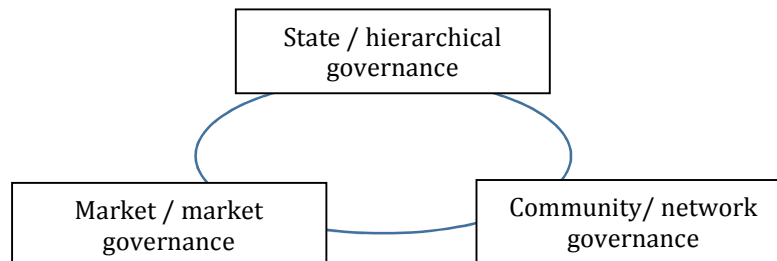
The common dimension of water utilities is not yet an evidence. The reason is simple : rivers or water resources are approached through common good (territorial and integrated management of water), but infrastructures (property and responsibility of public authorities) and their exploitation are considered as technical knowledges controled by specialized firms. The urban users don't frequently identify the water transport, its origin neither. Thus the common dimension of water utilities could be supported by a largest group of citizens with users of the same resources, or less by urban users informed about the geographic and environmental values of drinking water. However following Pflieger (2002), in water field, the citizen is interested in water supply as an component of public policy. In this case, participation or dispute aim the production's mode, public choices but they can relate the drinking water theme with largest items : environment, living conditions or local economic development (Pflieger, 2002).

Two reasons supported by Karen Bakker are relevant : « water has important cultural and spiritual dimensions that are closely articulated with place-based practices » ; « water is a local flow resource whose use and health are most deeply impacted at a community level; protection of ecological and public health will only occur if communities are mobilized and enabled to govern their own resources » (2007, p.12). The place-based practices are very important to understand the social relation to water provision too. There are also diversity and contrasts between south conditions and north conditions, within countries too.

Furthermore, we focus this paper about « community » for two reasons : our investigations and thinkings have progressed about « regional communities » (Hellier, 2018), and the spatial dimension is very pregnant in the community issue. Community is a element of governance level, that can be close to « network governance » employed into the littérature as Van de Meene and al. (2011). Indeed, these authors underline how three modes of urban water governance often come together in a composite regime, combining hierarchical governance, market governance, and network governance (Van de Meene et al., 2011).

The diagram below aims to outline the vocabulary used in Bakker and Van de Meene's papers:

**Fig.1 – Three types of water utilities governance.
Following Bakker (2007) and Van de Meene and al. (2011)**



In sustainable urban water management by Van de Meene and al., the « network governance » is not exactly similar than « community » governance. Network governance includes public, private stakeholders and civil actors, so it's largest than civil society. But these authors clearly reference the common concept « through extensive common pool resource management research, Ostrom (2010) considers trust, cooperation and decentralised management approaches (elements of network governance) to be key considerations of social-ecological systems ». The community engagement modifies the organisational regime, water governance is more effective and aligned with the network governance approach (Van de Meene and al., 2011, p.1118).

In fact, the survey shows the development of three types of citizen mobilization for water utilities :

1. Local consumers associations or local initiatives reclaiming improvements or protesting against tariff increase
2. Network movements built on national trade unions, political parties and ONG's involved in participation and public debate

In the first category, we can cite the local protest of in Ardèche (France) about political choice to invest in a new potabilisation plant and waste water treatment plant (Pflieger, 2002). These investment were currently ensured by state, departmental council and municipal subsidies until 1992. Since a new rule, municipal subsidies has been prohibited for water utilities most of 3500 inhabitants, and the tariff increased for users-consumers. So the local association of 1200 members has put the invoices amounts on a specific bank account, instead of paying the owner, to contest this tariff increase and private firm management. The discussion between association and local authorities concerns some main issues the citizens can understand and sustain : environmental protection, tourism, quality of waste water treatment (Pflieger, 2002). In this category, the national consumers associations as *UFC (Union Française de Consommateurs) Que Choisir* investigates the topic of price equity between citizens : they produce periodically somme comparative surveys about tariff's formation.

In the second category, our empirical survey in five medium-size french cities (Clermont-Ferrand, Dijon, Montpellier, Rennes, Rouen) showed the existence of a network between national trade unions (CFDT), political parties (Les Verts) and ONG's as Attac. Indeed, their representatives struggled for public owner (intermunicipal owner) and they organised informal meetings together to discuss the arguments and expertise about their struggle's objects.

Furthermore, other involvements are valuable in this mobilisation. The environmental associations are often interested in promoting a common good's management, because they consider water as a resource and right too, not only as an aquatic environment. The association Eaux et Rivières de Bretagne, in Brittany, is emblematic of this trend : in 1969 its initial and major cause is the water protection and the biodiversity improvement in the britain rivers. Today this association makes a stand together about the water rights, the resource uses (wich domestic use)

and the social tariffs. This association has struggled against the french State in court proceeding, regarding the distribution of domestic toxic water and the bad quality of raw water in 9 abstraction points.

Through those involvements, the issue is to design focal points between the social equity's concerns, public owners and quality resource defense. Some associations or groups of associations seem match these targets or concerns in France and Italy, in case studies we realised. Thus ACEau bassin rennais and Legambiente are NGOs examples which support the aspiration to integrate several aspects of water as a common good (text below).

In France, ACEau groups together 7 non profit associations for consumers and environment in Brittany (Rennes) : Attac, Eaux et Rivières de Bretagne, Collectif Eau du pays rennais, Fédération Léo Lagrange, Confédération Logement et Cadre de Vie, Nature en Ville, UFC Que Choisir). Two other associations are partners : Ar Vuhez and Agrobio 35. A current struggle concerns a new pipe from Vilaine estuary to provide cities with superficial water (100 kilometers lenght, both ways).

In Italy, Legambiente is a non profit association involved in environment problems in all ways : quality of life, social equity, rights, solidarity. It is an old association (39 years) that numbers 18 regional centers and 1000 local groups, corresponding to 115.000 members. The goal to Legambiente is educationnal porgress for environment. The themes of engagements are various : the child in the city towards atmospher quality, or participation in rivers'agreement.

« The commons view of water asserts its unique qualities: water is a flow resource essential for life and ecosystem health; nonsubstitutable and tightly bound to communities and ecosystems through the hydrological cycle » (Bakker, 2007, p.12).

A short last part will fast discuss if the current municipal reclaiming trend in water services is an opportunity to introduce a common good's management (Kishimoto, Petitjean, 2017).

Indeed, a trend of reclaiming public services can be observed at the international scale in 2010-2015 : 235 cases in 37 countries commensurating with most of 100 millions water users. This number of cases has been doubled than the previous period (2000-2010). We can highlight that 184 reclaim towards public owners take place in hight incomes countries, face to 51 in low or medium incomes countries. The majority of changes are observed in France (headquarter of Suez and Veolia) and United States.

This real trend is based on voluntary approach by local public authorities, when they prepare their internal organization to move and develop skills. It comes from a civic and associative pressure too : this lobbying drives local authorities to regain control. This trend is limited by power and historicity of multinational firms as Suez or Véolia and by development of mixed companies in Italia (Toscana, Umbria, Latium). We can qualify the change as a geographical shift of public-private partnership (PPP) more than a real and general change. We can see also a new mode of private activity, with the water utilities deliveries (customer service) in place of privatisation or PPP.

In Italia, many organizations have contested the Ronchi decree (2009), that extended the possibilities for private concession and competition. In France, Eau Publique France is a local politician's association corresponding to water utilities in public management. After a tumultuous period and a proceeding court, Grenoble's municiplaity has decided to establish a municipal management for water utilities in 2000. Grenoble's city constitutes a sort of model for the public mangement's advocates because the citizen mobilisation has lead to a users comitee ; this one discusses with public owner about new invests and tariff evolution. It is associated in policies reflections about water and energy savings. In Rouen and Montpellier, the public-private management evoluted towards public owner in 2012, for Rennes in 2015. When the concession

agreement ended, municipality council of Rennes chosen the model of Local public society : this model allows a strong public decision through the intermunicipality Eau du Bassin Rennais while the operator is a public society (which employed have private status). In Romania, these issues are important in Bucharest, while in medium-size and small-size towns the water utilities owner is controlled by municipalities.

In closing, we can say the public management of water utilities is not a sufficient condition to transform the water utilities towards a common good. This new A first step consists in including waste water collect and treatment in a single service, as *integtrato servizio* in Italy. It consists in associating water quality rivers with the urban utilities as a few collectivities do this. In France, the successive law for territorial reform encourages this convergence at local level (intermunicipalities). At second step, the authorities would give a real place for users-citizens and NGO's in official debates and deliberation bodies, as the users committee in Grenoble. In France currently, this participation is often restricted to an information, sometimes a consultation.

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