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The Renaissance of the Local Public Enterprises: the French Model

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My Presentation

- Is about shifts in the evolution of the regulatory policy concerning Local Public Enterprises – LPE- in France, focusing on the swinging pendulum between public/private capital and public/public shareholders.
- The factors determining the expansion of municipal corporations are common to most EU countries: decentralization and regionalization, inter-municipal cooperation, fiscal strains, opening up of capital, competitive context, expertise
- Of course, the essential reason for adoption of the municipal corporation model is that it permits the local elected **to operate in private company style**, with **significant flexibility** in managing personnel, in public procurement, and in financing.

My Thesis/ Message

- The question is what explains the difference of the French case, which “produced” in one decade no less than **four new types of LPE** as tailor made solutions for the local elected leaders, adding them to the traditional public/private SEM (Société d'économie mixte)?
- It seems that THE ANSWER IS THE CONCERTED AND DYNAMIC ACTION OF THREE DOMINANT PLAYERS:
 - 1- **The EU**
 - 2- **The French Exception** of “cumul des mandats” – dual mandate of the 'député-maire' (MP and mayor) and 'sénateur-maire'
 - 3- **The French powerful Federation** of LPE where all the Deputy-Mayors are members– always present and lobbying for promoting LPE , as added value tools.

Local Public Enterprises : as the "Third Way"

- Local Public Enterprises (LPE), as the so-called "third way" between public and private sectors, represent a popular mode of public service delivery all over Europe.
- **25,000 LPE** in the EU countries, with **1,6 million** employees, generating a **turnover of 282 billion Euros**, constitute a dynamic expanding economic sector.

Cartographie des Epl en Europe

 Nombre d'Epl



France : a Centralized Unitary State

- FRANCE is still a **centralized** state with **unitary** regime.
- The French economy grew and changed **under government direction and planning**, much more than in other European countries,
 - with a **neo-Colbertist policy**- that wants the public authorities to **retain control of the concessions and companies considered "strategic"**.

FRANCE- key figures

- According to the French Constitution, there are three levels of local governments that are non-hierarchical: **COLLECTIVITES TERRITORIALES**
- France has in its mainland territory
 - **13** REGIONS
 - **96** DEPARTEMENTS (COUNTIES)
 - **35,357** COMMUNES (MUNICIPALITIES)
- And **not yet mentioned in the Constitution:**
 - **1,263** EPCI à fiscalité PROPRE
 - Structures for inter-local government cooperation
 - They are elected bodies that raise their own tax revenues and have planning competences

Local Public Enterprises : DATA FOR 2017

1255	Local Public Enterprises –LPE among them:
929	Sociétés d'économie mixte (Sem)
318	Sociétés publiques locales (Spl)
7	Sem à Opération unique (SemOp)
1	Spla-in

And + 301 Subsidiaries

63 662 Employees

13,2 billion € turnover in 2016

553 447 houses for **1, 350 000** persons

LPE with **100 % PUBLIC** capital : **19 %**

LPE with **MIXED** capital : **81 %**

French LPE : 2017- DATA

65 Epl créées en 2016
[176 projets de création d'Epl]

301 filiales

pluri-activité

61 %

des Epl sont déjà engagées dans une stratégie de développement d'activités complémentaires

35 % des Epl ambitionnent un tel redéploiement à court/ moyen terme

financement

5,3 Md€

d'emprunts nouveaux souscrits (hors prêts institutionnels)

impact socio-économique

26,4 Md€ de valeur ajoutée
276 000 emplois générés

logement

553 447 logements gérés
1 350 000 personnes logées
17 788 mises en chantier

1 254
Epl en activité

929 Sem

dont 318 Spl

7 SemOp

63 662

emplois

27 % des Epl ont l'intention d'augmenter leurs effectifs en 2017 et **20 %** à l'horizon 2018

4,3 Md€

capital social

13,2 Md€

chiffre d'affaires 2016

44 % des dirigeants envisagent un volume d'activité supérieur en 2017 et **37 %** à l'horizon 2018

The five types of Local Public Enterprises: TAILOR MADE SOLUTIONS

Five different types of local public enterprises can be distinguished in France:

- **SEM**—Société d'économie mixte - **Semi-public company**
- **SPL**—Société publique locale- **Local public company**
- **SPLA**—Société publique locale d'aménagement - **Local public company for local development**
- **SEMOP** -- Société d'économie mixte à opération unique- **Semi-public company for one mission**
- **SPLA-IN**—Société publique locale d'aménagement d'intérêt national –**local and state public company for national interest**

To make it short: two main categories

1- Mixed municipal/ private local enterprises:

Their financing is both by public and private capital :

- **SEM** -Semi-public company: France being the only country in Europe with compulsory mixed public - private LPE (1926)
- **SEMOP** - Semi- public company for one operation (2014)

2- Exclusively public/public local enterprises

Financed by exclusive public capital:

- **SPL**- Local Public company (2010)
- **SPLA**- Local Public Company for Development (2006)
- **SPLA-IN** -Local and State Public Company for National Interest (2017)

Types of LPE: Similarities and Differences

The five types present basic similarities and differences.

Similarities are:

- Organized both under private **Commercial Law** – as Limited Companies – and under the **Local Government Law** – Code Général des Collectivités Territoriales
- They deliver services of **general/public interest**
- The **majority or part of the capital of the** company is in the **hands of elected representatives** as **shareholders** in its **management bodies**
- Theoretically at least – The LPE is under **full control of local government** as shareholder

- **The Differences**

- Besides the convergences, we must distinguish between the different LPE by **particular regime** :
 - in the way of their creation,
 - their capital structure,
 - sectors of activities,
 - competition tendering features,
 - territorial boundaries....

1- The Mixed municipal/ private local enterprises: SEM and SEMOP

- 1.1 SEM - Semi-public company
 - Traditionally the most significant type of LPE in France,
 - Have to comply with competition rules.
 - At least two shareholders are required, both public and private (banks, companies, or chamber of commerce and industry).
 - Between 50 and 85% of its capital is held by public authorities.
 - Their activities are not limited to the territory of its respective local authority: a SEM can operate in all areas and for all stakeholders.

1- The Mixed municipal/ private local enterprises: SEM and SEMOP

- 1.2 SEMOP - Semi-public company for one operation
 - Known in EU as Institutionalized Public-Private Partnerships (IPPP) , introduced into French legislation in 2014.
 - Give the local authority the opportunity to choose at least one private partner, which can hold between 15 and 66% of its capital.
 - The SEMOP are created for one single mission and are therefore time-limited.

2- Exclusively Public/Public LPE

- 2.1 The SPLA- Local Public Company for Local Development
 - Local public enterprises for local development were created in 2006
 - Require a minimum of two local authorities for setting up a public enterprise,
 - Are exclusively financed by public authorities.
 - Are limited to regional and urban planning
 - Cannot operate outside the local authorities' territory.

2- Exclusively Public/Public LPE

- 2.2 The SPL-Local public company

- Tools for cooperation among public partners, created in 2010.
- Their activities go beyond regional and urban planning.
- Might be dedicated to construction or all kind of services of public interest.
- Require a minimum of two local authorities
- Cannot include private shareholders.
- Are exempted from competition rules,
- Are not able to operate outside its local authorities' territory
- Operate only for its public shareholders

2- Exclusively Public/Public LPE

- 2.3- The SPLA-IN -Local and State Public Enterprise for National Interest
 - Since 2017, the State and its public establishments of development can create, with at least one municipality or the Intercommunalite (Structures for inter-local government cooperation), a new type of public limited company - which is in fact, a: **SPL of national interest** –
 - Where the State and its institutions are **shareholders**.
 - **La SPLA-IN Porte Sud du Grand Paris** (in the South Gate of the metropolitan area of Paris) is the first
 - SPLA-IN, established in December 2017

Local Public Enterprises: Three dominant Actors

- How to explain the rapid shifts in the regulatory policy which created, four more types of LPE after the compulsory and centenary local mixed society -SEM?
- It seems that the concerted action of **three dominant and dynamic Players**, is the answer:
 1. The EU
 2. The French Exception of “cumul des mandats” – dual mandate - of the Deputy-Mayor
 3. The French powerful Federation of LPE where all the Deputy-Mayors are members– always present and lobbying for promoting LPE.

1- The EU dimension

- Although The EU Law does not cover Local Public Enterprises as legal entity, **the EU directives regarding competition have great influence on the states' Legislation.**
- For example: the creation of SPL in France in 2010 was a response to the requirements of the European Union on the need for the mixed SEM to respect the call for tender procedures.

2- The French Exception: the Deputy- Mayor

- Since 1847, the “**cumul des mandats**” or dual mandate of the Deputy-Mayor was considered as the pillar of the Republican history, when about 45% of the Deputies and 48% of the Senators served also as Mayors, holding simultaneously two or more elective offices at different levels of government .
- This political practice particularly common in France, in comparison to other Western countries, became widespread practice, much more prevalent in modern France. The principal reason for this phenomenon, is that **France has a long tradition of centralization**, expressed by the famous slogan “Paris et le desert”

3- The Federation of local public enterprises

- The French powerful Federation of LPE where all the Deputy-Mayors are members, representing all Parties in the Parliament, are always present and strongly lobbying in EU, the State as Legislators and Local Government.
- The tasks of the Federation are: Promoting local public enterprises by putting forward their positions at EU, national and regional level and promoting local public enterprises to local authorities, **believing strongly in the added value of the LPE.**
- For example, The Federation was pushing for the new kind of LPE – The SEMOP –adopting the European model of IPPP

Concluding Remarks and Open Questions

- **The abolition of “cumul des mandats”**
 - This traditional political practice of dual mandate – as the pillar of the French République **was abolished in 2017**.
 - Hence, the question is how this new situation **will imply on the power of Local Elected on their Legislator?**
 - **Will they success to convince the Regulator of the added value of the LPE or will the Regulator consider them as “faux nez” (fake nose)?**

Concluding Remarks and Open Questions

- The SPLA-IN

- Are the fears of The Mayors from this new born LPE - as tool of recentralization and reinforcing the state intervention in planning programs, justified concerns , although the local government will retain control of development operations through a blocking minority?.

- The Intercommunalité

- The Local Public Enterprise become the strong tools of the Intercommunalité as pooling resources and co-operation between the collectivités territoriales, and the metropolization reform is amplifying their role, especially in housing sector, urban development and tourism.
- Is it the way for the Central Government to reduce the number and the role of the historic and famous Communes?

**THANK YOU FOR YOUR
ATTENTION**