



Public participation in water  
management

*Consulation and contracting*

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# Introduction

## The basics of French Law Water

- The current legal system is based on the Law of 16 December 1964, which has since been regularly amended, supplemented and modernized, in particular under the influence of European Union law.
- The law sets out an original administrative framework for water management, delineating administrative districts in terms of ecological criteria, namely **watershed\_basins** that correspond to the wider area basins. Thus, it creates a system of both decentralized and collaborative management.
- This law has been filled out by other important water protection texts such as: the Water Law of 3 January 1992 and the Law of 21 April 2004 transposing the European Framework Directive on water of 23 October 2000.
- The 1992 Law sets out planning instruments
- The 2000 directive provides also for concerted and integrated management, largely inspired by the French approach. It therefore includes watershed management, management through planning and programming, and public consultation efforts.



- The purpose of our intervention is not to present management in general, but to present the role of public participation in management.
- The question is: what is the place, the role and the types of public participation in water management both within this framework and outside it ?



- With a wide view of the topic, to appreciate the public participation, a distinction can be made between two major types of public participation in water management: managing through consultation and managing through contract. These two types of participation give some indications on the place, the role, the influence, the consequences of the public participation for water management and the type of person among the public.
- Two parts: Consultation (I)/ Contracting (II)

# I - Consultation

- A/ Indirect Participation

- B/ Direct Participation



## A/ Indirect Participation

- The public is represented by various organizations, some of which have both a consultative and a decision-making role.
- National Water Committee/Parisian Water Observatory /Basin Committee



# National Water Committee



- It is an organization at a National level, chaired by a parliamentarian but is composed of representatives from State and local authorities, NGOs, Basin Committees, Economic and social Council, and from among water users: more precisely, 50 users and two qualified persons.
- What are these 50 users?

- 5 members of the Chamber of agriculture
- 8 members of various NGO' s concerning protection of **water** and **fisheries**
- 1 representative of fish farming operation and aquaculture,
- 4 representatives of consumer associations 6 representatives of environmental associations
- 1 representative of **Water sports**
- 2 representatives of the associations of **inland navigation**
- 1 representative of **tourism** associations
- 1 representative of **water supplier**
- 2 representatives of residents associations,
- 2 representatives of the **professional fishing**
- 1 representative of the **shellfish farming**
- 1 representative of the **sea fishing**
- 1 representative of the **sea transport**
- 2 representatives of the Trade and **Industry Chamber**/ 3 representatives of industrial residents/ 2 representatives of companies of **electricity** production/ 1 representative of very special types of users, such as the **food** and **feed** industries, the **chemical** industries, the **paper** industry, **oil** industries, **metal** industries, **mine** industries.



- In particular, the role of the National Water Committee : consultation concerning national water policy. Its advice is required by the French Ministry of Environment concerning various water issues. It can also give an opinion on proposed reforms and, through an advisory committee, make suggestions concerning the price of water and the quality of public services.
- Quantitatively, if you observe the website of the Committee, we can notice a number of 4 reports of advice in 2014 and 6 in 2013, concerning the main water national problems, such as the development of hydropower and the flooding.
- To conclude, in one hand the place of the public participation seems to be important because it's covers a broad number of bodies. However, on the other hand, we must take into account the influence of this Committee is restricted to a consultation.





# The Parisian Water Observatory

- Local level: The Paris City Hall manages the public water service in Paris
- What is the PWO ? An extra-municipal commission set up by the Mayor of Paris in 2006 in order to organize the public consultation process and citizen control over municipal water policy, through the consultation and also various forms of opening debate. Everybody can participate voluntarily in the debate organized by the Observatory. It is just required to be registered. The participation is quite open.
- The Observatory is informed of all important deliberations regarding the management of water, on which it issues an opinion before they are passed on to the Council of Paris. This is the case of the price and quality of public drinking water and sanitation services
- Who are the members? This Observatory consists of four teams of experts, including the "Representatives of Parisian water users: one representative per consumer association, tenants association, or environmental protection ass, per property owners' and managers' association, per social housing landlord, association, major water consumers' group, professional organization etc."
- The president of the Parisian Water Observatory is, by the way, a member of very important consumer associations: UFC Que choisir.



- The Observatory published its advices or reports
- What kind of reports?
- For instance, one is called “Objectives contract” .
- Its goals is to assess the water management set up by the city of Paris, the role of the users within the management, and in particular their role in the quality of water, its price and the possibility to monitoring the consumption.
- The different reports transcribe precisely the oral exchanges and debates. We can see that all the users have the possibility to give their opinion.
- However, to conclude: in any case, here again, public participation remains weak in Paris as it has no mandatory bearing on policy making; the public merely provides an opinion.



# The Basin Committee

- The role? It implements water policy priorities at the level of the district, called a basin. It is this committee that participates in drawing up the Master Plan for Water Development and Management (SDAGE),
- The SDAGE is a planning tool at the regional level.
- Then the Basin Committee has a normative co-decision power
- The composition: The Committee is chaired by an elected local official and is composed of representatives from local authorities (40%), the State (20%) and users and associations (40%).
- Here we can find again a representation of the areas of the agriculture, the fishing, the tourism, the suppliers of electricity and water, the consumer and fisheries associations. And here again we can find some qualified persons.



## B/ Direct Participation

- The meaning? apart from these institutions, the public may be consulted more generally on national or local water policy.
- One example: the role of the Basin Committee
- Indeed, this consultation often takes place during the drawing up of a SDAGE plans by the Basin Committee.
- How does it work? The Committee is responsible for summarizing the major issues raised by water management and carrying out public consultation on these issues. The summary is made available to the public, in the Head office of the water agency and online, at least six months prior to the Plan being drawn up by the Prefectures, and on internet, notably in the website of the Committee and the French Ministry of Environment. The public is also informed through the newspapers. Once the SDAGE has been drawn up on the basis of the consultation results, the public is consulted again, one year prior to the implementation of the SDAGE.



## Two examples

1) First, in this context, and under the influence of the Framework Directive on water, public consultations on the future of water and the aquatic environment were carried out by the largest Basin Committees between 1 November 2012 and 30 April 2013.

They were intended to gather public input on key issues identified by stakeholders and experts, which was to help prepare water management plans for the period 2016-2021.

The responses are summarized on the website of the Ministry of Environment, where we also learn that the responses were collected via internet surveys.

25 000 people from civil society were consulted

While the Ministry congratulates itself, other sources and in particular the European Water Movement (organization for the improvement of water management in Europe and promotion of public participation via the Framework Directive) suggest that the French consultation was a “fiasco” !



2) Second, currently there is consultation concerning the management of water, flood risks and the marine environment.

The goal ? This consultation is meant to help prepare the new plans for management of marine regions.



It is interesting to look more closely at the questions to which the public may respond on the website of the Ministry

- *In your opinion, does climate change have an impact on water resources and the risks of flooding?*
- *Types of response: No, none/ Yes, it most certainly has an impact on water resources and the risk of flooding/ Yes, it has an impact on water resources/ Yes, it has an impact on the risk of flooding/ No, I don't think so/ I don't have sufficient information to say/ I have other concerns*
- *What do you know about marine and freshwater pollution caused by pesticides, drugs, hazardous substances, and their effects on human health, biodiversity...?*
- *Do you know if your home is in a flood-risk area and do you feel well-informed about the risk of flooding?*
- *Do you think that the action taken to manage water, floods and the marine environment creates jobs and is a source of innovation?*
- *Did you know that the National Observatory of Water and Sanitation Services provides information on the price and quality (such as network leaks) of such services?*
- *Did you know that plastic waste is one of the main causes of degradation of the marine environment and its biodiversity?*
- *Do you think that marine energy could play an important role in the*





- To conclude:
- We can see that the questions are not uninteresting but they are very broad, have only the goal to give some indications about the level of public interest for the problems concerning water.
- The answers are not totally free but guided
- Above all, this participation has any influence on the setting up of the SDAGE.



## II Public Participation through Contract

- In French law, water management is also a prime example of management via contract. The aim is to involve different stakeholders in water management through the use of a contractual agreement.



- More precisely, it is important to distinguish between two types of participation: the contracting “process” (A) and the contract concluded (B).

## A/ Contracting Process

- We can notice a form of contract exists to implement management plans, in particular SDAGEs at the regional level (or SAGEs at the local level). In reality, this contract is called contract only because there is a process of negotiation to implement a national or regional plan. That's why it is better to talk about contracting process.



- These SDAGE are Master Plans for Water Development and Management, for each basin, which set out the objectives for balanced management of water resources and fish stocks, and goals for the quantity and quality of water taking into account hydroelectric potential.
- To implement these plans, French legislation authorizes the conclusion of certain contracts generally called "Environment contracts" (*contrat de milieu*). Among these, the "river contract" is the most well-known

# River Contract

- The “river contract” enables work to be carried out or actions performed for the benefit of the river over a period of several years using a financing plan and a contracting authority.
- It relies on a specific procedure. Any local authority or user of the river may submit an application for approval to the Basin Committee. If it is approved, a River Committee is formed by order of the Prefect to draw up the contract and monitor its implementation.
- This Committee is composed of three teams, including one composed of users and associations.



## B/ Contracts concluded

- There are also contracts that directly seek out the consent of those interested in water management.
- This is some real contracts concluded with users of water. This contracting is therefore a form of public participation.
- 3 examples



- First, the contract Natura 2000. The Natura 2000 contract implements the European Habitats Directive of 21 May 1992, which sets up a network of European natural sites (terrestrial and marine), identified for the rarity or the fragility of wildlife (animal or plant) and their habitats.



- Conservation objectives within these areas may be achieved contractually, by agreement between the administrative authority and the holders of real and personal rights located at these sites.
- Often these contractual obligations prove beneficial for water management. These representatives of civil society therefore participate in the protection of water.

- Second: the “agri-environmental contracts” (originating in Regulation No 1698/2005 of 20 September 2005 on support for rural development).
- These contracts concluded between a local authority and a farmer enable the latter to receive an annual fee in exchange for actions promoting protection of the environment, including water quality.
- In this case, those clearly involved in polluting water become actors in water management.



- Finally, contracts originating in practice. Thus, some authors show how public authorities voluntarily negotiate contracts with farmers and wine-growers, which aim to steer their farming activities towards more respect for water quality.
- The example of the “Vittel-Contrex ville (Vosges)” water protection measures.
- The Vittel company, producing mineral water from the Vittel natural sources, had noted an increase in the levels of nitrates in surface water since the 1970s due to the 3500 ha of land being cultivated by 40 farmers on the Vittel plateau. The experts knew that the only solution was to change agricultural methods, but a solution had to be found in order to make those potentially responsible for the pollution take action.
- In 1992, the Vittel company bought up a majority of the agricultural land in the Vittel area in order to protect water catchments.
- The company then made this land available to farmers on the condition that they adopt agricultural practices more environmentally favourable to the quality of water catchment. Efficiency? It is now recognized that the contracts between farmers and the mineral water company



# CONCLUSION

- To conclude briefly, public participation in water management calls for distinctions to be drawn:
- First, it is important to distinguish between the forms of participation, namely general consultation and special contracts, direct and indirect consultation, contractualizing by the process or contractual agreement itself.
- Second, it is important to distinguish between the different influences of the participation: participation for giving an advice or for taking part into a public making decision or for implementing some environmental measures ...
- Third, it is also important to distinguish between the different persons involved in the public participation : namely water users, local residents, kind of associations, owners and farmers...

