

**Mandate of the Special Rapporteur on the human rights to safe drinking water and sanitation**

**Questionnaire to non-states actors**

**Report to the 48th session of the Human Rights Council  
(2021) on planning and vision  
Report to the 76th session of the UN General Assembly (2021)  
on water commodification**

The Fédération Professionnelle des Entreprises de l'Eau (FP2E) represents almost the entirety of private companies operating drinking and waste water management services in France. Its members are of all sizes : AQUALTER, SAUR, SEFO, SOGEDO, SUEZ, VEOLIA. Collectively, they employ 28 000 workers in France, distributed in 640 locations, and 71 000 workers internationally, in more than 40 countries.

FP2E welcomes the initiative of the Special Rapporteur on human right to water and sanitation - HRWAS- to focus his 2021 report on the commodification of water.

The French State is taking all measures, legislative, administrative and judicial, to guarantee the HRWAS for everyone on the national territory. The State is constantly improving the norms stemming from the HRtWS criteria (quantity, quality, acceptability, availability, affordability and cross criteria), knowing that it is the responsibility of municipalities to enforce them, and complete them, as part of the constitutional principle of “free organization” of municipalities : it is this principle that allows municipalities to sign contracts with private operators (our members), even though the law and the jurisprudence hold municipalities responsible, in any event, 1) for the respect of the norms stemming from the HRtWS and 2) the control of any decision susceptible to affect the HRtWS, at every time.

**I. COVID19 and human rights to water and sanitation**

1. In the context of COVID19 pandemic and recovery and relief measures, and within the countries that your organization works in; what measures and steps have been taken by the government (by both central and local governments), as well as public and private service providers to ensure that all populations have access to adequate and sufficient water, sanitation, and hygiene services and facilities?

Everywhere in France, essential drinking water and wastewater management services have been operating throughout the health crisis.

FP2E members were mobilized to maintain drinking water supply and wastewater management, focusing on their essential missions, thanks to the “Plans de Continuité d’Activité” (Continuity of Service Plans) and took the necessary measures to protect all of their employees.

On the ground, they set up rotations between smaller teams, reminded to the wastewater treatment plant personnel exposed to aerosols the obligation to wear their usual individual protection gear, and ensured their supply of FFP2 masks.

Prepared for the event of crisis situations, FP2E member companies pooled their shared resources on several services and their solidarity has also been expressed beyond the scope of the federation, particularly vis-à-vis smaller companies, when risks of supply disruption have been identified.

The mobilization of FP2E was marked by daily exchanges with the Ministries (Economy, Ecology and Health), associations of elected officials and other members of the industrial chain to contribute to the good coordination of actors.

The action of the profession has been acclaimed by French consumers. In a 2020 survey, 93% of French people believe that water professionals played an essential role in ensuring the continuity of service, 89% are satisfied with the water service and 85% of consumers declare trusting tap water.

1.1. In the event that water and sanitation services are managed by private operators and they are unable to meet the requirements of COVID 19, what specific measures have been taken to regulate and ensure that the population has adequate access to water, sanitation and hygiene services and facilities?

FP2E member companies have demonstrated resilience and responsiveness throughout the health crisis.

They have ensured the continuity of water and sanitation services 24 hours a day, 7 days a week. They have been able to cope with the drop in activity, particularly concerning construction works, which have generated partial unemployment, and have also borne unforeseen costs, in particular for monitoring and securing the sewage sludge system.

The management of the Covid crisis has clearly validated the organization and performance of our companies, which, because of their delegated service activities, offer numerous opportunities for pooling skills, technical resources, innovations and best practices.

This solidarity was expressed between the companies and beyond the scope of the companies that are members of the federation, particularly vis-à-vis smaller companies, as well as the municipalities-owned utilities.

1.2. In the event water and sanitation services provided by municipal (regional) governments or under community management, and difficulties arise in complying with COVID 19 requirements, what specific measures have been taken at the level of the central government to ensure that the population has adequate access to water, sanitation and hygiene services and facilities?

Two issues were problematic: the supply of masks, an area in which private operators have assisted municipalities-owned utilities as much as possible (hence outside their contract) and the obligation to hygienise the sludge. To meet this obligation, the State has encouraged the pooling of sludge treatment facilities, and private operators have played a major role in the implementation

of this pooling on the ground (sludge supply from small sewage treatment plants to larger plants equipped with more complete sludge treatment devices.

2. Within the countries that your organization works in, what temporary legislative or policy measures have been implemented in the context of COVID19 (including state of emergency, emergency laws, moratorium) to prohibit water disconnections for those who are not capable of paying the water and sanitation service tariffs?

As a reminder, since the Brottes Law (2013) and its implementing decree (2014) were clarified by the Constitutional Council, it is prohibited to interrupt the supply of drinking water to subscribers in their principal residence, even in the event of unpaid dues.

In the context of the Covid-19 health crisis, the French Government has taken specific measures regarding business subscribers. In France, for example, the Covid-19 Emergency Law °2020- 290 of March 3, 2020 has authorized the Government to take any measure to allow the payment of invoices relating to business and commercial premises to be postponed in full or staggered and to waive financial penalties and supply suspensions that could be applied in the event of non-payment.

2.1. What steps are being taken both by public and private service providers to ensure the affordability of water service for those who cannot pay the bills for reasons beyond their control, including unemployment and poverty, which have been exacerbated by the COVID19 pandemic?

OECD (2020) found that, between 2011 and 2015 in France, water expenses represented on average 1.17% of the household expenses for the lowest earning decile. To ensure that the water bill remains bearable for every household, several mechanisms have been set up:

- In 1995, public and private bodies co-created the “Points d’information multi-services” (PIMMS or “Multi-Service Information Points”), involving the State and several cities (Assemblée nationale, 2016). In 2020, 67 PIMMS were operating, with one million beneficiaries including on water and sanitation aspects.
- In 2000, FP2E proposed to erase unpaid bills from households in difficult financial situations under the Solidarity Fund for Housing (“Fonds de Solidarité pour le Logement” or FSL) (République Française, 2015, Article L115-3). This measure currently covers 75% of the French territory (Da Costa et al., 2015).
- The FP2E currently proposes to the last Departments that have not agreed with water companies to do so to complete the coverage of the Solidarity Fund for Housing.
- In 2010, «water cheques» were created by some private operators to alleviate the pressure on the most disadvantaged, to the benefit of 20,000 households per year (BIPE-BDO/FP2E, 2019).
- In the framework of the Assises de l'eau, the FP2E has proposed the establishment of water cheques at national level, a measure not retained by the Government at the moment.
- Finally, social tariffs have been tested in several cities, with the participation of FP2E members. On the basis of positive feedback (Comité National de l’Eau, 2019), France adopted a law, in 2019, allowing their experimentation throughout the country.
- Water cuts have also been banned in main residences since 2017.

All of these actions remain effective during the Covid-19 crisis.

2.2. In the context of the pandemic, was the safety and freedom of defenders of human rights to water and sanitation respected during protests and advocacy on water disconnections, access and quality?

The fight against the pandemic has had the effect of restricting a number of civil liberties, in particular the ability to move and gather freely. However, there have been demonstrations, for

example on November 17th against the “Sécurité Globale” law in front of the National Assembly; but there have been no demonstrations on water quality or access.

3. What are the vulnerabilities that have been exacerbated by COVID19 that negatively impact people's access to water, sanitation and hygiene (WASH)? What measures and steps have been taken to identify and target individuals and groups that have been exposed to those vulnerabilities? Can you provide some case studies, statistics or specific examples? In particular:

3.1. What are the specific challenges faced by the population living in rural areas and those areas that rely on community-based water and sanitation services? How have these challenges been addressed?

Rural areas face particular challenges, especially in renovating infrastructure networks. In addition, bacteriological compliance is often less satisfactory in small rural services, since they are managed by municipal services and not by private operators, as was shown by the Health Ministry.

As the Regional Health Agencies (ARS) reports show, water quality is often better in concession-managed water services.

3.2. What are the specific challenges faced by population living in areas that are suffering in hydric stress, and/or semi-arid regions?

France has not suffered a context of hydric stress during the health crisis.

3.3. What are the specific challenges faced by population living in refugee camps, in host-communities that absorb refugees, displaced persons and other forcibly displaced persons, slums and informal settlements in urban and peri-urban areas? What about seasonal workers?

Access to water and hygiene is essential to fight disease and limit epidemic outbreaks, including Covid-19. Informal camps that exist in France, especially in large cities, do not always have a connection to clean water in sufficient quantity.

Since April 2020, Veolia and its foundation have been working with its NGO partners to identify and meet the water needs of several informal camps, squats and slums in the Ile-de-France, Lyon, Toulouse and Lille regions. The installation of water access ramps was completed by the distribution of hygiene kits to allow these precarious populations to protect themselves against the virus. As part of this operation, some 50 water points were installed and more than 6,000 hygiene kits tailored to their specific needs (men, women, families) were distributed.

3.4. In addition to the above groups which have been identified as gaps in the Special Rapporteur's research thus far, which other groups and population should be prioritized due to the increased vulnerability that COVID19 has created?

Sanitation workers are, by function, exposed to Covid19. Since the beginning of the crisis, water companies have taken the necessary measures to protect all their employees, in particular by providing them with the appropriate individual protections. They prioritized wastewater treatment and distribution of drinking water activities and set up teams rotation when necessary.

## **Public policies**

4. In the countries that your organization works, what steps have been taken to address vulnerabilities that COVID19 has created for people and groups in public policies - the so-called “Building Back/Forward Better” policies - and other policies to build resilience and sustainability?

European authorities have ratified Directive 2020/2184 on the quality of water intended for human consumption, including, at the request of FP2E, among others, its Article 16, which aims to improve the access to drinking water (see point 3 below). The FP2E and multiple private and public actors also demand that the European authorities do the same for access to sanitation.

4.1. What are the lessons learned from responding to COVID19 to build social protection, resilience to prevent future possible public health crises?

The European Commission recommends that Member States set up systems for monitoring wastewater, and ensure the timely provision of relevant data to competent health authorities.

Therefore, the French health authorities involve all operators, both public and private, in the Réseau Obépine (Observatoire Epidemiologique des Eaux Usées) to measure traces of Covid-19 in wastewater and to alert about a potential resurgence of the epidemic. This collective effort is also supported by FP2E members initiatives, such as City-Watch (Suez), Vigie-Covid-19 (Veolia) to anticipate the evolution of the epidemic.

4.2. What measures and steps have been taken to strengthen access to water, sanitation and hygiene as part of strengthening the public health policy? What impact (if any) did recovery measures for COVID-19 have on other areas related to the implementation of the human rights to water and sanitation such as projects related to menstrual hygiene?

Throughout the health crisis, the Water Information Centre (Cieau) carried on its communication activities aimed at raising awareness among users about the impact of wet wipes, as well as other waste (drugs, cotton swabs, lenses, etc.) on wastewater networks. Cieau also continued its awareness campaign on the need to preserve tap water and make good use of it.

On the occasion of World Water Day, FP2E recalled the importance of good water uses, arguing that the development of the reuse of treated wastewater (REUT) would help guarantee access to drinking water for domestic needs.

4.3. In your opinion, what are the areas that have remained unaddressed or that require more attention both as short-term relief measures and in “Building Back/Forward Better”?

The Covid-19 crisis has highlighted the need to secure and strengthen intra-European supply chains in both basic components and intermediate goods with the aim of increasing European resilience.

The relocation of production to use territorial resources and reduce transportation is both an economic and environmental challenge.

In the long term, to make water and sanitation services resilient, in particular to address climate change, it seems essential to plan targeted investments in infrastructure, to promote the reuse of REUT and the energy and agronomic recovery of sewage sludge and green waste, while ensuring control over health and environmental risks.

4.4. In your opinion, have national/regional/local governments responded adequately through COVID-19 recovery policies to relieve the stress caused by the pandemic?

## **II. Climate change and human rights to water and sanitation**

### **Impact on specific groups**

1. In your experience, how does the impact of climate change hinder the fulfillment of the human rights to water and sanitation, especially in groups in vulnerable situations? Can you identify specific groups that have increased vulnerability due to the impacts of climate change (drought, floods, desertification) on water supply and sanitation? (i.e., women, residents of informal settlements, climate refugees, indigenous peoples, etc). Can you provide some case studies, statistics or specific examples?

Despite the effects of climate change, the continuity of water and sanitation services is ensured in metropolitan France. Crisis management is an essential component of the public service mission of water companies. They have developed monitoring devices allowing them to detect in real time any malfunction on the installations and have structured on-call devices, to mobilize, 24/7, human skills and material resources.

2. What steps and measures are being considered to carry out projects and policy that take into account the intersectionality among groups in vulnerable situations? Can you provide some case studies, statistics or specific examples?

The Multi Services Mediation Information Points (PIMMS) offer to users a one-stop shop for public services (energy, rail transport, water services, etc.) and offer support adapted to the needs of users in fragile situations.

In the case of the water service, the PIMMS mediators play a prevention role, helping populations in difficulty to better control their consumption, in order to reduce their expenses. In the event of payment difficulties, PIMMS will direct them to a joint solution with the service operator. It can also guide them in mobilising existing aid schemes.

Water companies have maintained their constant commitment to PIMMS since their creation in 1995.

3. What initiatives, projects at regional/local level are in place which takes into account the voice and knowledge of groups in vulnerable situations in designing solutions to address the impacts of climate change (droughts, floods, desertification) on the human rights to water and sanitation? What participation mechanisms are being activated? Can you provide some case studies, statistics or specific examples?

The system is insufficient in France but there are encouraging future developments under the drive of European law, notably through the revision of the drinking water directive.

FP2E welcomes the adoption of the Drinking Water Directive, one of its main objectives being to improve access to water for vulnerable populations. The text that will have to be transposed by January 2023 in all the Member States of the European Union, provides the obligation for the latter to “take such measures as they deem necessary and appropriate to ensure access to water for human consumption for vulnerable and marginalized groups”.

To this end, the directive compels European States to “identify those who have limited or no access to water intended for human consumption, including vulnerable and marginalized groups, and the reasons for this.”

FP2E will be pleased to contribute to the implementation of these measures.

### **Impact of droughts on availability and quality**

4. During drought cycles, when climate change effects tend to intensify in frequency and duration, water reserves should be monitored and foreseen and both domestic and drinking uses

must be prioritized in order to ensure the human rights to water and sanitation, with special attention to those groups in vulnerable situations. The negative impact on water quality, due to the concentration of contaminants when dilution flows are reduced, must also be anticipated. In this context, in order for climate adaptation strategies to ensure that the population has access to safe drinking water and sanitation:

4.1. From your experience, do you consider that - at national/regional and local level - there is a drought prevention strategy with a hydrographic planning that guarantees the supply of quality water, especially to groups in vulnerable situations? What weaknesses do you consider exist in the drought prevention strategies? Can you provide some case studies, statistics or specific examples?

Prevention strategies exist at national and local level (national drought committee, departmental drought committees,). The supply of drinking water remains the priority of these strategies. These strategies include a curative (consumption restriction measures, ...) and preventive component.

It is increasingly difficult to call on restriction measures during the low water period.

The preventive component could be reinforced by a more dynamic incentive for the implementation of certain measures: development of alternative resources (reuse, ..), modulation of tariffs according to the water situation, replenishment of water tables.

The tariff structure is a sovereign responsibility of public authorities. As a stakeholder, FP2E believes that progress is needed to encourage water savings through education and tariffs, while also ensuring affordability through appropriate support mechanisms.

4.2. From your experience, do you consider that the measures foreseen in the drought emergency plans are sufficient and adequate to guarantee the priority of water supply in households and for personal and domestic usages, especially in the case of groups in vulnerable situations? If not, can you describe the current challenges for these measures to be effective?

Restrictions imposed during periods of drought are still unevenly followed, and exemptions granted to non-essential uses are still too numerous.

Progress could still be made to improve and better quantify agricultural levies.

4.3. Have you identified areas, neighbourhoods or populations in vulnerable situations that are exposed to water shortages during drought periods? If so, in your experience, do you consider that the central, regional and local governments are implementing public policies that guarantee the availability of quality water in these cases? Can you provide some specific examples?

The phenomenon of “street pooling” can endanger water supply of densely populated neighbourhoods during heat waves. Public policies must consider global (not just repressive) responses to this problem, including the management of urban heat islands.

### **Impact of floods on availability and quality**

5. Floods caused by heavy rains and river floods, apart from causing risk to the lives of those affected, flooding of homes, destruction of crops and various economic damages; have significant impacts on water and sanitation services. Often, domestic water supply is contaminated or supply facilities are affected, which implies drinking water supply cuts. Sanitation stations tend to collapse when they receive storm drains along with domestic and industrial returns, which produces direct polluting discharges. Especially worrying is the situation of those sanitation stations located next to rivers, which tend to be flooded indefinitely. Sometimes the rise in the

level of the rivers and the massive pluvial drainage generate black urban floods through the sanitation sewers, even reaching inside the houses. In this context, in order for climate adaptation strategies to ensure that the population has access to safe drinking water and sanitation:

5.1. In your experience, what are points of improvement that are necessary to be included in territorial and urban reorganization plans in the face of flood risks in order to minimize the vulnerability of populations and to guarantee the human rights to water and sanitation?

As soon as possible, re-infiltrations as close as possible to the plots and the reversal of the waterproofing of cities should be encouraged, as well as the limitation of the artificialisation of soils.

5.2. What measures should be taken to prevent blockage of sewerage stations, flooding from river overflows or black flooding from the sewerage network?

Intelligent control systems for wastewater systems can be implemented to limit spills to the natural environment. French water companies have developed technologies that have proven successful in various major French cities (Bordeaux, Saint Etienne, Paris region, ...).

5.3 In your experience, do you consider that the emergency plans for floods are adequate and effective in ensuring water supply, sanitation and hygiene services for populations in vulnerable situations, both in their homes and in the possible circumstances of evacuation, if necessary? If not, what improvements are necessary?

The Orsec flood action plans make it possible to manage this kind of extreme events, as best as possible.

Water companies have systems to ensure supply and pool their relief and assistance means (Vésubie, Occitanie, Cannes, etc.).

### **Impact of Desertification on availability and quality**

6. The increase, both in temperatures and rainfall variability, caused by climate change increase desertification in arid, semi-arid and dry sub-humid areas. Desertification increases surface runoff and therefore increases the risk of floods, which impact water supplies and sanitation. It also causes less water infiltration in the aquifers, affecting the availability of water. Finally, the risk of fires is increasing, increasing the risk of erosion and desertification of burned areas.

6.1 To the extent of your knowledge, what steps and measures are being taken to guarantee that water and sanitation are supplied continuously in the case of desertification, especially for groups in vulnerable situations?

Not applicable to metropolitan France.

6.2 Are there information and citizen participation policies that integrate human rights in the fight against desertification?

Not applicable to metropolitan France.

### **III. Financialisation/commodification questionnaire**

**Specifics of the WASH sector and financialisation:**



1. Water and sanitation services are a “natural monopoly” and require large and long-term investments. This is in contrast to key characteristics of financial markets – competition and short-term management. This makes the WASH sector, in principle, slightly different to other basic services.

1.1. Drawing from your experience, how do large private operators deal with long-term investment needs in the water, sanitation and hygiene (WASH) sector? Do you know of significant short-term financial operations in the WASH sector to date? Do you think that short-term speculative operations can be combined with long-term strategies in the WASH sector? Please share any research, testimonies or experiences of this.

In France, the WASH sector (all actors combined) is keeping away from any speculative strategy.

Investments in the WASH sector are almost exclusively made by the responsible public authorities, and the infrastructure belongs to them. These authorities have the right to grant the operations and part of the investments to private operators, knowing that the volume of investments, the level of performances and the deadlines are exclusively of the responsibility of these authorities, and that the investments in question are “return goods” at the end of the contract. In practice, the majority of investments are directly made by the authorities, whether or not there is a concession.

Private operators, and not just large ones, invest to develop technologies and know-how, which are made available to the authorities in the context of transparent competition that guarantees equal treatment, leading to a binding and auditable contract.

Thus, municipalities, with or without a private operator, are completely free to define very precisely the private services (construction, consulting, various supply, operations, etc.) in terms of objectives, means and controls. They report on all these elements and are subject to regular audits, in particular by the regional audit chambers.

1.2. To the extent that it is a “natural monopoly” and that there cannot properly be competition in the market, what role should citizen participation and control have in the management of these services? Can you share any examples related to good practices in citizen control and participation, consistent with the requirements of human rights management in this regard?

As a natural monopoly, citizen participation in water is naturally more developed than in other sectors.

Water companies have encouraged citizen participation through legislation by promoting the creation of Advisory Commissions for Local Public Services (“Commissions Consultatives des Services Publics Locaux” or CCSPL) which are bodies intended to promote the information and expression of users on the effective management of services and to enable them to be consulted on the organisation and on plans for changing the management. In 2017, 76% of water and sanitation services managed by private water companies have a CCSPL, compared to 51% in all water services and 63% of all sanitation services.

In order to promote information on water and sanitation services to citizens, the companies helped to create the Water Information Centre (CIEAU). For more than 20 years, it has been engaged in an innovative approach for information access to the general public. Cieau regularly analyses consumer perceptions and publishes an annual barometer based on a survey of the public. The Centre also offers tools, animations and documents to share knowledge on the functioning of water services and raise public awareness on water challenges.

## **On the privatization of water and sanitation services.**

2. The former Special Rapporteur, Leo Heller, dedicated a thematic report on the impact of privatization on the human rights to safe drinking water and sanitation (A/75/208) in 2020. Building on this report, the current Special Rapporteur aims to follow-up on the recommendations made in that report and to expand the scope to examine the role of private actors, the various ways private actors can take part in water, sanitation and hygiene service provision and to clarify challenges and ways to address compliance with human rights to water and sanitation. In this context:

2.1. Have you come across policies and alliances based on Public-Public Partnerships (PUPs), between public institutions, that have sought to strengthen these public services? If so, please give concrete examples of successful PUPs, other forms of successful public management and financing and explain what did and did not work.

In France, the governance of water and sanitation services is ensured by several public bodies in charge of regulatory missions, as defined by the OECD. Whatever the management method, the different categories of actors (State, water agencies, local authorities, public or private operators) coordinate their actions and maintain a regular dialogue, in order to guarantee the technical, financial and economic sustainability of services, and their performance.

2.2. Crises can favour private investments to fill funding gaps in infrastructure and public services, if "austerity" strategies are applied, as was the case in the previous crisis (2007 - 2008). Given the economic crisis accelerated by the COVID-19 pandemic and the investment needs to prevent the impacts of climate change:

2.2.1. Have green funds or grants for climate change and environmental adaptation been applied or are planned for the water, sanitation and hygiene (WASH) sector? If so, has it further encouraged private actors into the WASH sector? In what ways? What has been the impact of these public or private funding contributions on communities and groups in vulnerable situations?

Water and sanitation can attract private investment, the sector is attractive to private investors but there is a lack of projects due to several factors: lack of stimulation, reluctance to measure the impact on water price, lack of long-term vision and lack of planning.

2.2.2. What has been the impact of COVID-19 shaped public or private financing of WASH services and infrastructure? And what has been the impact on communities in vulnerable situations?

Overall, the lack of long-term vision is very unfortunate. There has been no increase in private funding but the water agencies have implemented targeted measures.

## **On market-based mechanisms as a response to water scarcity**

3. There are various market-based options for managing water scarcity and its distribution to competing users. Although there are different models, what is common to all is the need to separate water rights and land rights, so that water rights/concessions/allocations/entitlements can be traded and potentially managed as a commodity. There are models, such as Water Banks, that organize transactions under public control and with strong regulations. There are also water trading markets that facilitate trade between entitlement holders and those who want to use that water. These water markets can be opened to speculators, who are not going to use the water rights at stake. Speculators are financial actors that promote speculative games (with high

expectations of short-term benefits) between those who have water rights and those who seek to buy them. Although most water trading markets are localized, within a river basin or in basins interconnected by water transfers, with the entry of new financial players, water rights can be integrated into global financial markets, through financial derivatives, where water will receive the same treatment as other tradable commodities.

In your observations:

3.1. How are they designed the water markets you know and what is their purpose? i.e. to manage water scarcity and impacts of climate change, to deal with over- allocations, or to ease trading between water rights/entitlement holders? Is the water that is traded or banked understood as public or private property? And if private, what is actually privatised? For example, a set amount of water, a licence to extract a certain amount of water, or the concession.

France has never considered setting up a water extraction rights trading exchange mechanism as a system for regulating levies: the latter is not applicable in France, which relies exclusively on public arbitrations to restrict withdrawals in times of drought crisis.

3.2. Water trading markets impact communities in vulnerable situations in different ways, for example cultural water rights of indigenous peoples may not be taken into account, and small scale farmers can be priced out of the market due to increasing prices. What has been the impact of market-based mechanisms such as water trading and water banks on the ability for communities in vulnerable situations to both access and afford water and sanitation services?

Not applicable in France.

3.3. In some water trading markets trading is limited to actors buying water for their own use (for example, agriculture, extractive industries, urban water services) and other markets are open to speculators. What are the largest actors in the water trading market that you are aware of? And if markets are open to financial investors what type of companies are they, for example hedge funds, individual investors, International banks ... Are there differences between the impact of each type of actor and design of the water market on the price and availability of water?

Not applicable in France.

3.4. The recently announced Nasdaq Veles California Water Index is the first example of water futures trading, what do you think will be the impact of this on the affordability and availability of water? And can you see this model expanding beyond California? If so, how?

Not applicable in France.

3.5. Do you have any available research, evidence or anecdotal experiences of the impact of market-based mechanisms on communities in vulnerable situations?

Not applicable in France.

#### **On the commodification of water through bottled water**

4. The extraction of water for beverages is an increasingly profitable industry. Water extraction companies can be given licences to extract groundwater or surface water or given access to municipal water supplies at low or marginal costs. Bottled beverages, including water, are sold at high profit margins and may be targeted at families in vulnerable situations who are wary of the quality of public water services or who have limited or poor quality access to such services. When groundwater or surface water is scarce, these businesses can increase the vulnerability of communities facing scarcity problems.

Drawing on your experiences:

4.1. What has been the impact of bottled water extractions on communities in vulnerable situations' access to water and sanitation services? Please share any evidence you have of this including research reports, anecdotal experiences, or testimonies.

4.2. Are there mechanisms available for impacted communities to hold companies, the host-State and home-State to account for their impact on access, affordability and availability of water?

In France, the State and local authorities define water policy, using an integrated approach, which aims to bring together water uses and users around water resource issues.

It is in this context that the State organized in 2018-2019 the «Assises de l'eau», which are a forum for consultation of local elected officials, water stakeholders at national level and through basin committees at local level. They were structured around two sequences: the first dedicated to water and sanitation utilities and the second dedicated to practical solutions to the challenges of water management in the face of climate change.

### **On Financialisation**

5. Water and sanitation services and infrastructure can be "financialised" in different ways, this can mean a larger role for for-profit actors in the WASH sector: investors and private companies, financial actors including banks, international financial institutions, hedge funds, pension funds, and increasingly insurance services. Thus, the corporate space is expanding through the commoditization of water, the privatization of water and sanitation services or the inclusion of WASH infrastructures, services and even water, as a resource, in global financial markets.

In France, financialization stops at the gates of municipal water and sanitation services: infrastructures are owned by local authorities and remain so. Unlike some countries, infrastructure has not been and is not sold to funds or insurance providers.

Operations may be granted to a private provider, in a strictly regulated manner, for 15 years or less depending on the investments required and following a competitive, transparent tender, and ensuring equal treatment between the applicant companies. In addition, regulatory agencies and regional audit chambers scrupulously ensure that control by the local authority remains close and effective, both directly and through the consultants who assist municipalities in 95% of calls for tenders.

5.1. The financialization of WASH has been driven by different motivations, for example, to promote investments and expand services or to address water scarcity under the perspective of climate change. In your observations, which actors are involved and what are their motivations in pushing for or against:

#### 5.1.1. Water trading markets including futures trading?

“Water markets” go well beyond the WASH sector in the strict sense, and include the construction of dams or conveyance infrastructures, the maintenance of river banks and the renaturation of flood expansion areas, the construction or maintenance of municipal infrastructure in the WASH sector, but also rainwater management, up to the provision of internet services and teletransmission, energy, chemical reagents, land and real estate services required for WASH sector services, studies and advice in all these areas, or the concession of certain WASH sector operations. In France, all of these services are subject to the Public Procurement Code, and therefore subject to the sovereign and revocable decision of public authorities.

The sectors described above all have an impact on the WASH sector, but are extremely different in terms of income, margins, impact on local employment, and their dependence on the stock market will be very different from each other. In terms of water resources, and extraction licences, there is no market, so there are no futures markets.

#### 5.1.2. The privatisation of services and/or infrastructures?

The privatisation of WASH sector infrastructure is not taking place in France. As for services, “public money” is generally cheaper than “private money”, so private operators do not present themselves as financiers: the logic of outsourcing lies in technical performance, transparency and risk transfer, and private operators only cover their own contractual expenses, which are generally well below the overall cost of water/wastewater service.

#### 5.1.3. Water pollution trading? For example, the trading of pollution credits on shared water systems.

Water agencies collect a levy on pollution, but this levy is in no way a “security” (as in a financial title) and backed by a right to pollute.

In France, the climate law reinforces the penalization of actions that harm the environment, soil, air and water.

#### 5.1.4. The commodification of water through for example bottled water?

The sale of bottled water is a purely commercial activity that has nothing to do with WASH services. Its environmental impacts are assessed by the decentralized services of the State as for other industrial actors.

In 2020, 50% of French people used bottled water compared to 67% for tap water.

This trend, which has been confirmed since 2006, can be explained in several ways:

- A high proportion of consumers have confidence in the quality of water and its service, whether managed by a public or private operator.
- Bottled water is much more expensive than tap water.
- It is an ecological move, plastic bottles need to be recycled and consumers are increasingly aware of the environmental impact of plastic

#### 5.1.7. How has this changed over time? and are there new trends and developments?

France is continually strengthening and refining the legislative arsenal that governs WASH services, in its health, environmental, citizen and economic dimensions, by systematically strengthening the responsibility and tools of municipal authorities, to increasingly and more systematically apply the criteria of human rights to water and sanitation (quantity, quality, acceptability, access, and affordability, as well as the Non-discrimination and Equality criteria of Access to Information and Transparency, Participation, Accountability and Sustainability).

The service information system (“Système d’information sur les services” or SISPEA) is a very effective tool for information and transparency (in particular through performance indicators), for which there are still margins of progress that water companies encourage, notably a more systematic reporting of information and greater reliability of information.

The definition of performance indicators for water and sanitation services at European level can help the sector to improve its performance. They can also provide greater transparency to consumers, which is essential to building confidence in the quality of drinking water. The FP2E

welcomes the fact that the 2020 Drinking Water Directive overhaul includes obligations to provide consumers with better access to information.

5.2. There is ongoing debate on the role and impact of financialisation and speculation in water as a resource, WASH services and infrastructures. From your point of view, what are the possible repercussions of the participation of financial agents in the water markets developing speculative strategies?

WASH Services are by definition long-term activities, which are not suitable for speculative activities. Fortunately, France considers that WASH activities are human rights, details the criteria at the national level and leaves the territories free to organise, with the explicit reservation that this freedom does not conflict with human rights to water and sanitation.

5.3. Private actors have been involved in the WASH sector for many years, through privatization processes and public-private partnership strategies. What will change in your view with the advance of financialization involving the entry of powerful financial actors and speculative strategies in the futures markets?

Privatisation of water and sanitation services is excluded in France.

In France, the public-private partnership enables the public sector, which guarantees the general interest, to rely on the dynamism and know-how of the private sector to manage public services and infrastructure in an efficient manner.

In the context of decentralization and the transfer of responsibilities for water and sanitation, the French State has found that the territories do not have the right expertise to manage WASH competencies. The lack or absence of engineering resources, as well as the complexity of the projects, led the State to create a National Agency for Territorial Cohesion (ANCT) to support the territories in developing their projects, taking into account their specificities. Private operators support the upskilling of local authorities and provide them with technical expertise and innovative solutions to help make water and sanitation services more resilient.

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