

## **New Horizons in European Studies**

**Aston University, 24-25 April 2014**

Conference papers are works-in-progress - they should not be cited without the author's permission. The views and opinions expressed in this paper are those of the author(s).

**[www.uaces.org](http://www.uaces.org)**

# Why no one cares about mandatory rules applicable to Service of General Economic Interest at the local level in France and why it is likely to change? A neo-institutionalist perspective

---

Paper prepared for the 15<sup>th</sup> UACES student forum conference, Birmingham, 23-24 April 2014, Breakout session 2, panel A: "European Law Enforcement: Tuning Multiple Governance Levels".

Working paper, comments welcome, please do not cite without author's permission

---

**Brice DANIEL**

PhD candidate

Centre de Recherche sur l'Action Politique en Europe (CNRS - UMR 6051)

Sciences Po Rennes and Rennes 1 University

Email: [brice.daniel@live.fr](mailto:brice.daniel@live.fr)

Phone: + 33 (0)6 28 20 39 27

## **Abstract**

This communication examines French local authorities enforcement of the European law applicable to subsidized local Service of General Economic interest (SGEI). Such subsidies have to comply with a number of mandatory constraints defined under competition law, to not be considered as state aids. Building on the observation that most local administrations are not respecting these obligations, our objective is to explain their non-compliance by using a neo-institutionalist approach and by doing so discuss different Europeanization models.

First, it should be noted that there is a high degree of misfit between EU and French public services rules, which is hindering local actors' capacity to implement the European policy (historical neo-institutionalism). Thus, only Lille and Nantes have been developing SGEI implementation strategies — building on their strong European commitment (politics does matter).

It's also important to note that the risk of control is very low for local governments, as none of the designated controlling institutions is exercising its powers, resulting in a situation of low compliance incentives (rational choice neo-institutionalism). This hypothesis is confirmed by the fact that local authorities only recently started to develop their SGEI expertise following a Commission announcement that access to structural funds will become subject to the respect of SGEI rules.

# Communication

---

## Introduction

### SGEI historical and legal context

#### European indirect intervention in the field of public services

The European Union competence in public services has been built on the basis of the Single market law. It is why, in the first place, the EU intervention in this field has been dealing primarily with services of the economic kind. In EU jargon, these services are referred to as Services of General Economic Interest (SGEI). The Union uses a somewhat circular definition to delineate SGEI: they are considered “economic” because they are provided on a market. Because of their economic nature, competition law is applicable to SGEI. At least as long as competition rules do not prevent the service providers from fulfilling their public services missions (see art. 14 & 106 §2 TFEU).

SGEI is an old concept of the European legal framework, as it made its first appearance in EU law in 1958 following the ratification of the Rome Treaty. It has been formulated to mark the distinction between the organic and the functionalist definition of public services (see Andenæs *et al*, 2011, p. 21). The organic definition refers to the status of the persons delivering the services (civil servant, employee of a private company, volunteer, etc.); whereas the functionalist definition refers to the provision of the public good, not to the type of organization delivering it (private company, public company, public administration, non-profit organization, etc.). Even though it's an old concept, it is only after the Single market push of the Delors' Commission and the ratification of the Single European Act in 1987 – which implied a shift in the voting procedure in the Council regarding issues related to the common market – that the European institutions started to proactively enforce competition law to SGEI.

This led, in the nineties, to a first wave of liberalization targeting certain network industries providing SGEI (i.e. train services, postal services, energy, communications). Shortly after, the question arose as to whether EU competition law should also be applicable to SGEI mandated by local authorities. The issue was particularly important for local public services subsidized by local authority. Such subventions were likely to be considered as state aids, a type of aid that is proscribed under EU Competition law. Actually, a lot of different local public services benefit from direct or indirect financing by local authorities. Variation exists between Member states, but in some European countries, economic public services financed by local authorities are a key part of local economic development and social cohesion policies: water treatment and delivery, local public transportation, elderly care, social housing, etc.

At that time SGEI were not a top priority for the Commission, as it did not view them as decisive for the completion of the Single market. It was also a sensible political question, as any regulation may have been perceived as an assault against the principle of subsidiarity. This may explain why the Commission did not promote sectorial regulations in the view of pushing for their liberalization. Which did not prevent those services from operating under a certain degree of legal uncertainty, as competition principles embedded in the European treaties were likely to be enforceable to them. It ended up being the role of the Court of Justice of the European Communities (CJEC, now ECJ) to tackle down the thorny question of the articulation between Competition law and the modalities of financing for local SGEI. In 2003, in a landmark decision – known as the *Altmark* case<sup>1</sup> – the Court defined mandatory rules framing the subsidizing of SGEI. In that ruling, the judges formulated the conditions under which a local public subsidy will be considered as a compensation of public service:

---

<sup>1</sup> CJEU, Case C-280/00 *Altmark Trans* [2003] ECR I-7747.

- the recipient undertaking must have public service obligations and the obligations must be clearly defined;
- the parameters for calculating the compensation must be objective, transparent and established in advance;
- the compensation cannot exceed what is necessary to cover all or part of the costs incurred in the discharge of the public service obligations, taking into account the relevant receipts and a reasonable profit;
- where the undertaking which is to discharge public service obligations is not chosen pursuant to a public procurement procedure, the level of compensation needed must be determined on the basis of the costs of a typical well-run company.

If a financed public service meets all these cumulative conditions, the subsidy will be considered as a compensation of public service and not as an aid, and will be deemed compatible with European competition law. Yet, in practice, those conditions were so stringent that most local authorities were not sheltered from a court decision requalifying their financial support as state aid. In a move to clear up the situation, the Commission – drawing on its exclusive executive competence in competition law – published a legislative package, known as the Monti-Kroes legislative package, which was supposed to help local authorities to bring their practices up to the level of the European *référentiel* of public service policy. This legislative package – and its successor, the Almunia package – confirmed the first three principles of the *Altmark* decision and dropped the last one (as it was in practice impossible to determine what was a “well-run company” and thus compare the public service compensation to that alternative hypothesis) and introduced a *de minimis* provision. The *de minimis* regulation introduced a threshold under which a compensation of public service will be automatically considered as compatible with European law, and thus will not be the subject of any European control: under the Monti-Kroes package this threshold was fixed as amounts up to 200,000 euros for three years and has been raised to 500,000 euros for three years under the Almunia package. These packages also set up a notification procedure in the view of permitting oversight of the Commission over the development of SGEI in Member states.

## **French local tradition of public services and SGEI legislative package**

### ***Types of SGEI at the local level***

In France there is a long lasting trend of public intervention in the field of public services, both at the national and the local level. Yet, it is important not to confuse the French national tradition of public service with the local tradition of service public; at the local level what is known as the French tradition of public service is in large part mythical (Brillet, 2004). The national tradition of public service refers to a model where a national monopolistic organization, composed exclusively of civil servants, is entrusted as the sole provider of a public good. Local authorities public services organizational practices are more mixed and rely heavily on marketization via procurement and concession procedures. In practice, private operators proved an important part of the local public services in France. One notable example is water treatment and delivery, where some *délégation de service public* are more than a hundred years old. However, in other policy fields, French local public authorities have a longstanding habit of funding directly or indirectly undertakings responsible for the fulfilment of a mission of general economic interest. Those services are considered as playing a key role in local economic and social development policies. Notwithstanding territorial specificities, French local authorities typically fund the following services: cultural services, services linked to the social and solidarity economy, services dealing with local development policies (for instance public urbanization organization or innovation consultancies), and last but not least, a wide range of social services (social housing, elderly care, etc).

### ***Policy of negative integration and policy change at the local level: how to comply with the SGEI legislative package***

Even if SGEI policies can be assimilated to a process of negative integration (see Scharpf, 1996) their implementation at national and local levels calls for concrete organizational and operational changes.

These changes can be objectively measured: conformance of entrustment acts with the SGEI framework (form and content), notification of subsidies made to SGEI providers, etc. Therefore, to comply with the SGEI legal framework, French local authorities need to put in place an adequate institutional set up: the European affairs department needs to monitor SGEI policy developments at the European level and has to diffuse pertinent information to relevant services (keep in mind that the SGEI framework is in large part jurisprudential); the Legal affairs department has to control each payments made to organizations which might be categorized as an SGEI provider, if it reveals to be a SGEI provider a mandating act will have to be signed and the information will have to be transmitted to the Commission, etc. Therefore, SGEI implementation and compliance (for a definition and distinction between implementation and compliance, see Treib (2006)) at the local level is relatively easy to measure, which is not exactly the case for state aid law in general. For state aid law, compliance with European norms has to be measured in terms of practices termination (the underlying logic is in substance to terminate national institutional paths, see EPPIE, 2005): first, it has to be gauged by the mainstreaming of state aid laws into relevant national ones (national aids policy needs to be reviewed in the view of taking into account the European frame work, Saurugger, 2012) and compliance as to be measured indirectly through variations of case law (see Blauburger, 2007).

## Methodological and theoretical aspects of the study

### Methodology

Qualitative approach, with a large spectrum of method of data collection:

- One year immersion in the Public Services Intergroup of the European Parliament (through a traineeship at Business Europe, the European employer association);
- 20 interviews at the European, National and local levels;
- Detailed analysis of French and European laws, academic publications and grey-literature dealing with SGEI;

### Theoretical approach

This research is stimulating in the sense that it examines a policy which has three characteristics that are understudied by political sciences scholars in the Europeanization literature:

- 1°) It takes for object a policy of negative integration, which is a policy domain suffering from a deficit of attention from political science researchers (see Blauburger, 2007).
- 2°) It adopts a multi-dimensional analysis approach: studying a policy of negative integration at the three level of decision making of the European space of public policy (see Eppie, 2007, p. 77).
- 3°) It is a research that intend to examine the effects of a constraining instrument of public policy in the European multi-level space of governance, whereas the majority of studies made on instrument in the field of EU studies were made in relation to the debates on EU new modes of governance (see Kassim & Le Galès, 2010).

To give a comprehensive and dynamic picture of the French SGEI Europeanization, this study will be build on multi-level, multi-institutionalist approach. Multi-level because there is a deficit in Europeanization studies of researches that try to articulate national transposition or implementation of European norms with their implementation and compliance at the local level. Thus, the Europeanization of French local public services will neither be studied from a top-down standpoint (see Falkner *et al.*, 2005, for an overview of this approach) nor from a *bottom-up* standpoint (see Pasquier *et al.*, 2004, for an overview of this approach). As this research focuses on a problem of policy implementation and compliance in a multi-level public policy space, it appears that a mixed approach is the relevant perspective to adopt. A mixed approach that try to articulate in a dynamic way the top-down pressures (notably by paying a diligent attention to the effects of the instrument of the

policy) and to the logics of appropriation or rejection at the local level. This approach borrows heavily on Sabatier (1986, p. 39), and could also be related to a recent article published by Hupe *et al.* (2014), where the authors adopt a top-down approach without explicit policy goal identification to better understand power struggles at the local level which are determinant in determining the final outcomes of the policy.

## **Outline of the communication**

The leading argument of this paper could be phrased as follows: “What are the institutional and cognitive factors that can explain the low level of SGEI norms institutionalization at the local level in France?” This paper demonstration will be carried out according to the following plan: the first part of the document will assess the degree of SGEI norm institutionalization at the local level in France in the light of the degree of misfit which characterize this process of Europeanization. The second part of this paper will review different possible *explanans* in the view of testing the explanatory power of different Europeanization perspectives in this particular policy context (sociological neo-institutionalism, rational-choice institutionalism and discursive neo-institutionalism).

I → A Low Europeanization of French SGEI: policy learning impediments in a situation of high adaptational pressures

II → Explaining non-compliance with SGEI norms at the local level: the interplay between EU norm abidingness, judicial incentives and political leadership

## **A Low Europeanization of French SGEI: policy learning impediments in a situation of high adaptational pressures**

### **Europeanization of local public services in a situation of misfit and high adaptational pressures**

Under the traditional model of Europeanization, the degree of goodness of fit (see Börzel, 1999 and Dunia, 1999) or match (Héritier *et al.*, 1996) is expected to be an important factor in the intensity of changes induced by the European policy at the domestic level. Regarding French Europeanization of local public services, what is the degree of fit between the European legal framework and the pre-existing French local services organization?

#### **Degree of fit characterization**

There is a high degree of misfit between the French and the European model of governance regarding local public services. It is possible to measure that misfit on more than one level: legal incompatibilities between the two policy, opposition on policy representations, opposed modes of policy governance and conflict resolutions, opposing administrative institutional set-ups and routines, etc.

#### Legal incompatibilities between the two policy (policy misfit):

A first difficulty is constituted by the fact that French public service tradition is the source of an important and complex legal environment. This complexity is likely to cause incompatibilities between French and European norms. Entrustment acts for instance do not mean the same thing in the two legal orders. Ultimately, this particular incompatibility poses a dilemma to French public authorities: are they going to choose to be in compliance with French laws or with European ones? The concept of *entrustment act* in European law and the French concept of *acte de mandatement* are not interchangeable. Under French law, the origin of the initiative of the service is the determining factor in deciding which legal regime is going to apply to the case (the *droit de la commande publique* or the *droit de la subvention*): if a local authority decides to set-up a service, then a public procurement procedure will have to happen. If the decision emanates directly from a service provider, then local authorities will be allowed to subsidise it more freely. The problem is that French judges tend to view an SGEI entrustment act as the expression of the public authority desire to put in place a service, which forces the local government to rely on a procurement procedure (which are not as flexible as a financing via direct subvention).

#### Opposition on policy representations (ideational misfit):

In terms of policy representations and ultimately of policy implementation the difference of approach between the French and the European public action model is patent. The majority of local actors in charge of non-regulated SGEI do not see themselves as economic agents, as they are providing non-profit services. As non-profit actors, they do not feel that competition law should regulate their activities, hence do not think of the EU as a regulating actor in their field of intervention. As Policy learning starts with policy awareness, this opposition between the French and the European ideational system is likely to hamper norm institutionalization at the local level.

#### Institutional set-up and administrative culture (institutional misfit):

Institutional misfits are also observable at different levels concerning SGEI norm institutionalization. This institutional misfit expresses itself, firstly, on an incompatibility between a European centralized mode of SGEI governance and the French fragmented territorial policy organization. French territorial administration is complex and most of the time prerogatives overlap between different levels of decision-making. As a result most of local SGEI are financed by a plurality of public authorities (municipality, department, region, state). Hence, local authorities need to work together to comply with the European framework, but this cooperation is not in their usual practices. Another institutional misfit is observable at the level of the local authority, between its different services: when trying to comply with SGEI norms, local authorities need to organize a certain degree of cooperation between their different services: most notably between the European, legal, and financial affairs departments. But the French local institutional set-up, which is very compartmented, local authorities services work only marginally between themselves.

## **An unexpected result? Wide-ranging and long-lasting non-compliance with mandatory SGEI norms at the local level**

How do French authorities cope with SGEI compliance in this context of misfit which is the source of important adaptational pressures?

### **Observing long lasting non-compliance in a context of constraining policy**

#### ***The danger of overestimating the domestic impact of an European policy when choosing a top-down approach of compliance***

The objective of that research was, in its preliminary version, to give of comprehensive picture of the institutionalization processes of SGEI rules at the local level in France. The idea was to focus the analysis on both the *policy learning* processes and the changing patterns of local practices induced by the implementation of these European norms. It was hypothesized that discrepancies between local authorities will be observable – regarding norm institutionalization processes and ultimately the degree

of compliance – due to the different relationships set up by local elites with the European institutions (download and upload Europeanization) and with European policy networks (horizontal Europeanization).

This first approach of the local public service Europeanization was designed following a participation in the Service public Intergroup of the European Parliament. In the course of that immersion, very intensive and disputed debates were observed in European policy affairs field around the local implications of the SGEI framework. Given the importance of those debates and the mandatory nature of the policy, it was presumed that important organizational and political changes had been provoked at the local level by the SGEI legislative package. At least in member states where a long tradition of local public services existed at the same time as a low degree of service marketization. Understandably, it happened to be German and French Members of the European Parliament and local government representatives who were the most vocal in the Intergroup regarding SGEI compliance at the local level, as those two traits are found in these countries' traditional set-up of local public service.

### ***A paradoxical situation? Long lasting and wide ranging non compliance with European mandatory norms***

In the view of choosing two relevant French municipalities to infirm or confirm our hypothesis regarding differentiated local degrees of SGEI compliance, a first round of interviews was made with a number of legal affairs and/or European affairs department in French local public authorities. The result of that first fieldwork was unexpected: it has been found that an overwhelming majority of French civil servants seems to not be acquainted with the European legal framework for SGEI: in most cases, they had a very vague knowledge of the concept of SGEI and no practical experience in applying its legal framework. In one case, the head of the legal affairs department of a municipality did not even seem to be aware of the concept. It is a revealing finding as this interview was made in a municipality of more than 150,000 inhabitants (more than 450,000 inhabitants in its urban area), with highly developed public services. It seems to indicate that the level of SGEI policy awareness is very low in French local authorities, which in turn is to be considered as highly detrimental regarding their capacity of compliance.

One might object that this lack of awareness of the European legislative framework is due to the fact that French local authorities do not set up and finance public services akin to SGEI. But then how could we understand the French members of the European parliament statements explaining that local authority were facing enforcement difficulties with SGEI framework? To make sense of what appears to be a contradictory situation, a second round of interviews was made at the national level, with local government representatives and ministries officials. Two facts were confirmed during those interviews: first, that most French local authorities do set up services which fall under the category of SGEI; second, that coincidentally there is a wide-ranging and long standing non compliance of French local authorities with the SGEI package. A senior official of the *Secrétariat général des affaires européennes* (SGAE) acknowledged this dual reality. It should be noted that, the SGAE is a division of the Prime minister administration which is acting as an intermediation agent between national administrations and European institutions. Hence, the SGAE is one of the few institutions that have a global vision on the degree of compliance of French local authorities with the SGEI framework. Other institutions officials confirmed those results: the *Direction Générale des Collectivités Territoriales* (the ministry department in charge of the relations between the state and local administrations), the three major local authorities associations, the main professional association of legal counsellors for local authorities, etc.

Drawing on that result, it is possible to affirm that this is a problem of non-compliance that French local authorities face and not a problem of non-interest in a discretionary policy instrument. As previously stated, this legal framework is mandatory and do not call for additional national execution measures to be legally compelling. Besides, this legal framework should have been benefiting from the positive learning effects that come with a long period of application, as the framework gained force of law in 2005, date of the publication of the first SGEI legislative package. In fact, it was even enforceable before that, in 2003 with the ECJ's ruling in the *Altmark* case. With such a large timeframe, French national and local authorities should have been able to implement this policy, even in a context of high adaptational pressures. Its time now to assess how and why did they failed in that regard.

## **Explaining non-compliance with SGEI norms at the local level: the interplay between EU norm abidingness, judicial incentives and political leadership**

In the context of European studies, a noteworthy article to assess the predictive capacity of the different neo-institutionalisms in different context of adaptational pressures (see Börzel & Risse, 2009). In this article, Börzel & Risse confront the sociological neo-institutionalist and the rational-choice neo-institutionalist perspectives of policy change under different degree of adaptational pressures. As each school puts emphasize on different mediating factors (be they facilitating or not) outcomes of the process are likely to differ, especially in situation of high adaptational pressures. According to Börzel & Risse, sociological neo-institutionalism tends to predict that change is unlikely in a situation of high adaptational pressures – the cognitive leap asked to policy actors is too high for policy learning to happen – and rational-choice neo-institutionalism tends to predict that change is likely in a context of high adaptational pressures – norm entrepreneurs are likely to manifest themselves as the distribution of new resources is important. These assumptions will now be reviewed in the light of French SGEI Europeanization.

### **A local administrative culture and a high degree of misfit impeding SGEI policy entrepreneurs' projects (sociological neo-institutionalist)**

#### **Unfavourable local and national administrations cultures and practices for SGEI norms implementation (informal institutions)**

One of the mediating factors single out by sociological neo-institutionalists is the existence at the domestic level of favourable or unfavourable informal institutions (see Börzel & Risse, 2003, p. 58). Saurugger (2013, p. 107) indicates some example of types of informal institutions, which are likely to play a role in the Europeanization processes here studied: support for the EU and law abidingness.

It may seem paradoxical in a context where European policies frame directly or indirectly an important part of local public action, but it is clear – drawing the findings of this research – that in French local authorities, support for EU policies is quite low. The EU is seen as a remote actor which is imposing policies which are perceived as bureaucratic (complex modes of governance) and intricate (material complexities of the norms). This perception of the EU as concrete implications, but the most important regarding this study is that – generally speaking – local authorities European expertise is very low. Local authorities have developed their European expertise in the last decades, but principally in the field of European project management, in the view of securing more grant from EU funds. Incidentally, European expertise at the local level is mainly limited to European affairs departments and is highly specialized on Regional policy (see de Lassalle, 2010). This expertise is not distributed to other services of the local government, even if they should be interested in European policies as they are dealing with European norms, albeit without always being conscious of it. As it was pointed out by one of our interviewees: “Local authorities legal affairs departments do not invest in European law specialists”. This low level of expertise does not constitute a favourable ground for policy awareness development. As local authorities evolve in a multi-level governance space, it should also be noted that this situation is not helped by the fact that national civil servants also suffer from a lack of European expertise. Hence, the French central administration is not really armed to help local authorities improve their European proficiency. Evidence of this incapacity is to be found in the fact that national administrations have experienced important difficulties when trying to foster SGEI awareness at the local level: an SGEI circular published by French authorities is unanimously viewed as having been the source of perverse effects, within the meaning of Boudon (1977): one of these effects was to push local authorities to favour tendering procedures rather than conforming with the

SGEI legislative package, which was not its objective. Also troubling is the fact that French ministries started to work on a SGEI Implementation guide for local authorities in 2009, but were only able to publish it in 2013. A very long timeframe, especially if are taken into account the discourse of some French stakeholders who see that guide as a simple translation of the Commission guide.

Another informal institution that is likely to hamper local authorities capacity to enforce the SGEI framework is local authority relations to law. It appears from this research that local decision-makers take political stance before consulting with their legal affairs department. Hence, when a political decision is taken regarding the organization of a local public service, most of the time, no legal assessment has been pre-emptively made. Legal affairs departments have sometimes to tinker around to find solutions that fall into the rule of law. Which may explain why as long as a norm is not directly perceived as a threat – it is when a developed litigation exists – the odds are low that local authorities will enforce norms. Generally speaking law abidingness is low in French local authorities. What is true for French norms is even more for European norms, due to the low support for EU policies. This low level of abidingness and the primacy of politics over other considerations do not constitute a sound environment for SGEI enforcement. It may explain why local SGEI whistle-blower – when they exists – are not listened by their hierarchy. On a side note, it is possible to remark that this “culture” may set aside France from Germany when addressing the situation of state aid and SGEI awareness in both countries. As Thielemann (1999, p. 404) notes, German civil servant: “are very much guided in their policy-making by what they believe is legally possible and what they believe could survive a test in the courts”. This civil servant culture may explain why SGEI awareness is higher in Germany than in France.

### **SGEI Policy entrepreneurs unable to impulse change in a context of high adaptational pressures**

It should be noted that some actors tried to impulse a stronger mobilization of French political and administrative forces on SGEI issues. They were multi-level actors who tried to act as mediating agents between the European and the domestic spheres. Building on their multi-dimensionality, they were in position to constitute themselves as European entrepreneurs and tried to promote awareness on SGEI at the national level and at the sub-national level in France. Two figures are particularly noteworthy in that regard: Jean-Louis Destans – at that time he was a Member of the Committee of the Regions (CoR) and the President of the European commission of the *Association des départements de France* (ADF) – and Jean-Christophe Moraud – he was then an ex Director General of the ADF and senior official of the *Direction générale des collectivités territoriales* in charge of SGEI issues.

In the aftermath of the debates on the Services directive, Jean-Louis Destans tried to mobilize French General Councils on SGEI issues. He acted as a “policy entrepreneur” (Kingdom, 1984) when he tried to play the role of a whistle-blower as he perceived the SGEI regime as endangering French local public service tradition. But when he tried to make each French General Councils vote a resolution on SGEI, its peers received him with scepticism. They did not rally behind him because they perceived the subject as too technical and too remote form the French tradition. For its part, Jean-Christophe Moraud acted more as a “norm agent” (as understand by Börzel and Risse, 2003, p. 11). His objective was to increased conformance with the SGEI framework in local authorities as he saw the high level of non-compliance as a risk. In the view of doing so, he launched a national audit of all *Départements* service policies, to assess which public services were susceptible of being assimilated to SGEI. This project leads to the publication of a SGEI guide for *départements* where practical solutions were proposed to bring in line departmental policies with the SGEI legal framework. Yet, according to the ADF European policy officer, no *Département* ever tried to implement the solutions proposed in that guide.

The high level of misfit and the low European culture at the local level played against the projects of both of these SGEI entrepreneurs: neither of them was able to find sufficient backing to support his agenda. This situation seems to indicate that in a context of high adaptational pressures change entrepreneurs – one of the mediating factors single out by Sociological neo-institutionalist – are not in a position to impulse policy change at the domestic level, at least in the context of the studied policy.

## **Low SGEI Europeanization induced by a low distribution of conformance incentives (rational choice neo-institutionalism)**

If policy learning is understood as “a change in response made in reaction to some perceived stimulus”, as Hecló (1974, p. 306), it may be important to assess whether or not the SGEI legislative package comes with such stimuli, and if yes, to evaluate their intensity. It was shown in the last section that French local authorities did not train their personnel in the view of complying with the SGEI framework. It is possible that they did not do so because of a lack of motivation, especially considering the high degree of polarization between the European and the national practices and representations. This hypothesis here is that mechanisms of compliance control could act as conformation incentives, or disincentives as the risk of control and sentence is perceived as a negative incentive by local authorities.

### **A risk of condemnation too low given the high cost of compliance**

SGEI rules are mandatory and their compliance is controlled via an ensemble of control mechanisms:

- Judicial control: at the European level with the European Court of Justice, following a pre-litigation procedure lead by the Commission; at the national level as domestic judges are supposed to apply European norms.
- Administrative control: national state administrative control organs as Member state are held responsible of the due respect of European norms by their decentralized authorities. In France the *préfet* is supposed to control the enforcement of the SGEI legislative package at the local level.

Under such control mechanisms how come wide-ranging and long-standing non-compliance could be observed? In practice none of the different authorities in charge of these mechanisms is exercising its powers, preventing them to act as deterrents.

Regarding the Commission, SGEI enforcement at the local level is not considered as a priority. As the Directorate General for competition has only limited human resources, it has to prioritize its interventions. In this context, it's impossible for the Commission to control every subsidy given by decentralized authorities of each Member states. In the view of trying to alleviate the burden of that control, the Commission has set up notifications procedures (member states are bound to give notification to the Commission when a public service compensation is versed by one of their local authority) and threshold limits (under a certain sum, a compensation is deemed to be too small to have any possible impact on intra-community trade and thus will not be controlled by the Commission). But it appears that France is not respecting its notification obligations: the level of policy awareness is so low that most local authorities do not transmit any SGEI information to the state, *a fortiori* to the Commission. In the field of the state aid, in the view of accessing to the information, the Commission relies on complaints logged by competitors to bring to the surface what are likely to be the most salient unlawful cases. In the field of SGEI, it is impossible for the Commission to use such a stratagem, because most of the time, due to the sectors of activities concerned by the SGEI framework – mostly social services – there is no competitor at the local level to denounce a potential derogatory case. If there is a potential plaintiff, two additional hurdles are likely to prevent them from using a litigation strategy. Firstly, there is a problem of repertoires of collective action, in the field of SGEI, undertakers are not always very professionalized, especially on European issues, hence, they did not make European litigation as one of the elements of their repertoires. Secondly, when they have mastered that kind of practice, it is not in their own interest to denounce the aid, as this move may deteriorate their relation with the local authority and prevent them from working with it in the future. This lack of actors in position to make a strategic use of litigation may explain why conformation with the SGEI framework is lower than conformation with the state aid framework or even with European water policies (the implementation of the water framework directive is a particularly striking example of this kind of litigation strategies used by local level actors to force local authorities to comply with EU norms, see Bouleau, 2008).

Regarding the state control over administrative acts taken by its infra-national entities, it is clear that SGEI compliance have never been a priority of that practice (see Belloubet-Frier, 2007, for an

overview of Member states practices regarding control over administrative acts). At the local level in France, the *préfets* are in charge of this control. But in practice, only one circular dealing specifically with SGEI issues – *circulaire du 4 juillet 2008*<sup>2</sup> – has ever been addressed by the government to its prefects. This circular called for prefects to audit local authorities subvention practices in the view of assessing if they were complying with the SGEI legal framework. But in practice, *prefects'* priorities are framed by an agenda determined at the level of the Prime Minister and it's on the basis of those priorities that prefects' efficiency is evaluated. An interview made at the Ministry level confirmed that compliance with SGEI has never figured in those national guidelines for administrative control. This absence is easily explained by the fact that the different French governments have always taken side with French local government associations on SGEI issues: they always have endorsed associations' calls for a loosening of the SGEI framework. To introduce an element of comparison, it is possible to note that English greater compliance with SGEI legal framework – in addition to be made easier by a better policy fit – may be explained by the fact that the central government is pushing for less public interventionism and would have been likely to enforce it even if local authorities tried to push in the other direction (Koukiadaki, 2012) thanks to its important control over its sub-national entities.

Those two parameters imply that the risk of control and *a fortiori* of condemnation is very low for French authorities in case of non-compliance with the SGEI framework. In a situation where the cost of compliance is very high – due to the important misfit – and where there is a low distribution of conformation incentives, it was unlikely that French authorities will ever try to comply with the European framework.

#### **A “counterfactual” confirmation: a renewed interest related to a rising risk of control**

Lately it is possible to observe a renewed mobilization on SGEI in the domestic space which might be considered as a counterfactual confirmation of this rational choice hypothesis. Indeed, a growing agitation is observable at the ministerial level and in local authorities associations on SGEI issues. French local authorities wait-and-see attitude on SGEI seem to be evolving into an attitude of apprehension. Two factors are at the origin of this shift.

First, a change in the Regional policy is going to impact the SGEI framework. Under the 2014-2020 multi-annual financial framework, the Commission has decided to subject accessibility to the European funds to the respect of the SGEI framework. A strict compliance with SGEI legislation – which is now part of the *ex-ante* conditionalities of the Regional policy – will be asked for every organization receiving subsidies from one of the European funds. By doing so, the Commission objective is twofold: rationalizing its control process (when reviewing application to EU funds, it will at the same time controlling compliance with SGEI legislation) and ensuring greater SGEI compliance. If these *ex-ante* conditionalities are not met, the Commission will have the power to cut the non-complying organization from access to the funds. This is a tough threat for French local authorities. Actually, an important number and a large variety of local public service providers receive subsidies from the EU funds. In France, the European Social Fund (ESF) is often used by local SGEI providers which are responsible for the provision of services related to social inclusion, unemployed training, back-to-work assistance, etc.; the European Regional Development Fund (ERDF), for its part, is used to build or refurbish social housing unit, but also for hospitals, nurseries, etc.

A second more domestic issue is participating to this move toward better SGEI awareness. In an act of institutional transfer (Dolowitz & Marsh, 1996), French lawmakers have recently adapted a Scandinavian policy instrument in the view of giving more leeway to localities in the organization of their local public services. This instrument, know as the *Société Publique Locale* (SPL), is an instrument specifically designed to let French authorities unilaterally entrust an organization with an SGEI, without having to follow a procurement procedure, as long as 100% of the capital of the provider is public. Seizing this opportunity, in the last few months, French authorities have been setting up a very important number of SPL, in a wide variety of sectors of activity: water treatment and distribution, urbanization, etc. What public authorities might not have paid sufficient attention is the fact that for an SPL to be compatible with European law, it has to be organized around a strict compliance with SGEI norms. The main point of divergence from the previous generation of SGEI, is that SPL are

---

<sup>2</sup> Circulaire n° NOR/INT/B/08/00133/C de la Direction Générale des Collectivités Locales du Ministère de l'Intérieur du 4 juillet 2008 relative à l'application par les collectivités territoriales des règles communautaires de concurrence relatives aux aides publiques aux entreprises chargées de la gestion d'un service d'intérêt économique général (SIEG).

set up in very economic sector of activity, where they face competition from well established multinationals, which have mastered litigation procedures. According to the president of the French professional association of legal counsellors for local authorities, this situation is very litigious and may reveal itself to be “explosive”.

The French administration is preoccupied by these evolutions. Hence, it has recently started to develop more effective SGEI conformance strategies: by setting up a high level SGEI taskforce (composed of senior officers from the interested ministries) and by dedicating some of its personnel to the training of local authority servants. It will be interesting to observe if in the future French local authorities are able to scale fast enough to be in a position to comply with the SGEI framework. They will have to train their personnel rapidly if they are willing to build the required European expertise needed to implement the SGEI rules, before the *ex ante* conditionalities are made effective. It will be possible to see how a high degree of misfit could complicate the policy learning process, further delaying the institutionalization of the norm.

### **When local politics are more important than incentives: local usages of Europe as a driver for change (discursive neo-institutionalism)**

On SGEI policies every local governments are not created equal: if the vast majority of French local authority did not tried to comply with the SGEI legal framework, a few municipalities did, even in a context of high adaptational pressures and of lack of conformance incentives. This result points out to the fact that the enforcement theory of compliance, based on a rational choice approach (Saurugger, 2012, p. 108), is not fit to give a comprehensive picture of local authorities different attitudes toward SGEI compliance. How could we explain those divergent trajectories?

#### **Pioneering municipalities: Lille and Nantes SGEI trajectories**

In the course of this research, it became clear that Lille and Nantes were separating themselves from the rest of French cities on SGEI compliance. Both of them set their administrations at work on the SGEI legislative package long before the Commission announced its plan to introduce new *ex-ante* conditionalities in the Regional Policy.

Nantes' political elite took interest in EU intervention in local public services policies in 2004, during the examination of the procurement directives at the European level. The two Procurement directives limited local authorities aptitude to conclude cooperation between one another: according to the Commission, public-public partnership contracts had to be made through procurement procedures as they were falling into the scope of the directives. As Jean-Marc Ayrault – mayor of Nantes since 2001 – political agenda was to hand over local public services missions to the inter-municipal structure, he did not cast a favourable eye on this interference. At that time, the SGEI question was not one of preoccupations in Nantes, but due to the procurement directives, Nantes started to be active in European networks on public services issues. One of the examples of that activism is the aggressive lobbying campaign launched by Nantes in Eurocities. In this European network, public services were conventionally designated as Services of General Interest and were associated with the economic development working group. Nantes successfully led a campaign – one might characterize it as a definitional struggle (Gilbert & Henry, 2012) or an issue framing battle (Schön, 1994) – to impose a specific Public services working group in the organisation. Nantes accompanied this intense lobbying activity on SGEI with a compliance program, even if quite limited: since 2011, the municipality has been organizing a yearly workshop on local SGEI implementation, where relevant European, national and local stakeholders exchange on the issue.

Lille *métropole* urban authority path of mobilization on SGEI issues is more interesting from a compliance perspective. SGEI issues were brought on the local agenda during the negotiation of the Service directive. At that time, certain municipalities of the conurbation put to vote motions aiming at

sanctuarizing certain types of public services by sheltering them from competition principles. Under the dual French and European legal order, decisions of that nature are null and void, but local decision makers acted knowingly, in the view of taking a political stance. In 2010 the municipality took a new step in its mobilization on SGEI in response to the promulgation of a national circular on the funding of non-profit organizations<sup>3</sup>. The legal affairs department of the municipality wrote models of contracts for subvention that took into account SGEI norms, but these models were not used by the functional services of the municipality. It was not until 2011 – seven years had passed since the *Altmark* ruling – that the first effectual step toward compliance was made by Lille. First, local public service actors sensibilized Christian Bouchart – municipal and metropolitan councillor for social and solidarity economy and for fair trade – to the possible threat that represented the SGEI legal framework (this is a reminder to the importance that should be given to non official actors when assessing Europeanization from a local perspective, see Marshall, 2007). Christian Bouchart then turned to Martine Aubry – mayor of Lille and president of the urban authority – in the view of gaining some political traction on SGEI. Madame Aubry decided in January 2011 to launch an audit of all the practices of the urban authority that could be affected by the European legislative package for SGEI. Within that context, Lille metropolitan authority sets its administration at work in the view of complying with the European framework.

### **Political discourses and usages of Europe and paradoxical norm institutionalization**

How come those two cities have been able to develop SGEI implementation strategies while others were not? To give an account of those specific trajectories, local political dynamics and strategic usages of Europe (Jacquot & Woll, 2008) have to be taken into account. Regarding local political strategies, it is interesting to note that Lille and Nantes are middle size cities that tried to differentiate themselves in a context of inter-city competition by betting on their European identity. In Lille and Nantes political spheres, the EU has been progressively perceived more as a resource than as a constrain. In the view of ripping all the benefits of these opportunities, those political pledges were backed by concrete institutional changes. First, the European affairs departments of the two municipalities gained more importance in the power structure of the cities. They were no longer treated as decentralized cooperation services but more as structure interfacing the EU and local administrations. Hence, a more efficient structure of diffusion of European information and knowledge has been set up at the local level: European referees were named in all policy-oriented services of the municipalities, etc. Another concrete effect of these discourses was that a greater number of civil servants were given the possibility to become member of European public policy networks, etc. These changes – though not directly related to the SGEI framework – acted as facilitating factors when local awareness on SGEI was called for: in Lille and Nantes, when the SGEI framework was perceived as detrimental for existing public policies, whistle-blowers were able to make themselves heard by local political actors.

It is possible to say that Lille and Nantes European discourses were transformative in the sense that they modified the perception of EU policies in the local political space, which in turn induced institutional and organizational changes in the local administration. Hence, these forms of discourses are examples of the transformative power of ideas and discourse as publicized by discursive neo-institutionalists (Schmidt & Radaelli, 2004, and Schmidt, 2008). The power of discourse is not the determining factor regarding the Europeanization of French SGEI – the low distribution of compliance incentives better explain the overall attitude of local authorities – but discursive neo-institutionalism shines new light on Lille and Nantes trajectories and explains why they fared better than their peers. Nonetheless, even for Lille and Nantes, and as indicated by discursive neo-institutionalists, discourses are “always situated in broader institutional contexts” (Schmidt & Radaelli, 2004, p. 193). This institutional context may explain why Lille and Nantes were not able to totally comply with the SGEI legal framework: even if they designed enforcement strategies, they are still trying to implement the legal framework rather than complying with it. Lille which is the most advanced of the two cities regarding local implementation – the mayor set up a mission to review SGEI issues in December 2011 and the inter-municipality Council voted a SGEI implementation roadmap in April 2013 – is still facing very high compliance hurdles, most notably due to the high level of institutional misfit. Those

---

<sup>3</sup> Circulaire n° NOR/PRMX1001610C du Premier Ministre du 18 janvier 2010 relative aux relations entre les pouvoirs publics et les associations : conventions d'objectifs et simplification des démarches relatives aux procédures d'agrément, J.O.R.F. n° 0016, 20 janvier 2010, p. 1138.

difficulties can be put down to the limits of the transformative power of discourse, especially if these discourses are local and the problem is national.

Another interesting point to make regarding these processes of norm institutionalization is that Lille and Nantes mobilizations on SGEI were at the beginning mostly reactive. Nevertheless, these oppositions constituted a first form of socialization to the norm: the cities had to set their services to work on the SGEI framework in the view of trying to determine which policy domains were concerned and how it will impact them. This move acted as a first socialization to the European norm and was the first step of a process that may ultimately lead to the institutionalization of the norm at the local level (both in terms of implementation and compliance). This paradoxical institutionalization of the norm is an example of how institutional contexts, by a process of socialization – not always looked for, and not always perceived –, are shaping and reformulating actors' preferences. Building on a sociological neo-institutionalist perspective (see DiMaggio and Powell, 1999), Le Galès (2000) has shown how long lasting interactions – even if they take the form of a confrontation – tend to progressively change actors' preferences and ideas. To put it in Le Galès words: "*Est maître des lieux celui qui les organise: how rules change when national and European policy domains collide*".

## Conclusive remarks and theoretical insights

### The traditional model of Europeanization in a multi-level governance perspective

The three step model of Europeanization, as defined by Caporaso *et al.* (2001), is a great achievement and is a point of reference for every research that study the domestic impact of European norms. Yet, in the opinion of the author of that paper, when dealing with norm institutionalization in a multi-level perspective, a few adjustments have to be made to that model:

- First adjustment, even if the sequential approach of this model is interesting, the dynamics of Europeanization processes may be in reality less linear than what this model tend to let us think. For instance, regarding the SGEI framework, as it is a policy of negative integration, the scope of the policy is not exactly determined at the end of the European process, its through a long process of interpretation by the ECJ that the policy is made clearer and that local authorities precise obligations are determined. This policy indeterminacy let more room for manoeuvre to local authorities in their implementation strategies a give a somewhat less vertical perspective on Europeanization than what is implied by Caporaso *et al.* model. Another revealing fact in that perspective is that French public authorities SGEI policy awareness is not directly linked to the promulgation of the policy by the Commission, but to the debates on the Services directive.
- Second adjustment – following *EPPIE* (2007, p. 50) – the author of this communication tend to prefer to rely on more traditional public policies tools than on the *ad hoc* framework proposed by the traditional model. Most notably in the view of being able to apply the three neo-institutionalisms – or the four if we think that discursive neo-institutionalism is markedly different from sociological neo-institutionalism – in a dynamic perspective at all the decision-making levels (European, national and local). In the view of giving a more comprehensive picture of

Europeanization processes and policy phases, the author of this communication tend to favour a joint neo-institutionalist approach rather than their opposition (see Börzel & Risse, 2003 for an opposition of the sociological neo-institutionalist and the rational-choice neo-institutional perspectives of Europeanization in a context of high adaptational pressures; see Hall, 1997, Palier & Surel, 2005, and Guigner, 2013, for a cumulative approach).

## Europeanization through usages of policy instruments

This situation of non-compliance with SGEI norms is another example of the well document capacity of Member states to deter enforcement of European norms at the domestic level (see Börzel, 2002, Börzel *et al.* 2007 and Verseluis, 2007). Nonetheless, it is interesting from a theoretical point of view as the studied policy is mandatory and instrumented with compliance control mechanisms. It may shed new light on the debate on European hard and soft norms impact in domestic spaces, as it is sometimes assumed that hard law is likely to produce greater effects at national levels than soft law. There is a growing literature on significant observable domestic impacts produced by certain European soft policies, see for instance Guigner (2007) and Tholoniati (2010) and this research is point out in the other direction: hard European norms accompanied by compliance mechanisms are not always enforced at the local level. This may be revealing of one of the specificities of the European public policy space, where the Commission has to rely on domestic actors to keep track of unlawful situations and has to “externalize” part of its compliance control activities to Members states. By adopting a sociological instrument perspective on Europeanization (Lascoumes & Le Galès, 2010) researchers may be better equipped to understand those unintuitive logics. Researchers may pay a meticulous attention to domestic usages of policy instruments (at the national and the local level) as they seem to be decisive in determining the final outputs of a policy process. After all, it’s the use of litigation strategies that forced French local authorities to reluctantly comply with the state aid framework or the water quality directive, even if imperfectly. According to Lascoumes (1990), legal norms are formal frames but only have an “indicative value” and are only institutionalized through actors’ actions. It is not the *a priori* “degree of coercion” which is the determining output factor but rather the concrete forms of implementation of this instruments and the meaning given to their actions but implementation actors.

We need to see « le système juridique comme un système ouvert, un « espace de jeu » dans lequel on n’observe ni de dures contraintes toujours sanctionnées, ni une indétermination absolue des pratiques. L’existence de règles permet le développement d’activités de mobilisation interactives où opèrent acteurs privés et publics. On peut dire dans ce sens que la mise en œuvre des politiques publiques s’accomplit, comme l’interprétation du droit effectué par les juges, dans une « tension dialectique » entre le projet du législateur, les ressources juridiques institutées et les conditions locales de leur mobilisation par les acteurs en situation » (Lascoumes, 1990, pp. 70-71).

This attention to policy instruments usages may also reveal itself to be interesting regarding policy change over time. Instruments sometimes have unforeseen effects which may, over the long run, induce change of great importance. Knill & Lehmkuhl (1999, p. 13) rightly remark that the direct institutional impact of policy of negative integration is rather low. But regarding the policy at hand, important unforeseen effects of the policy instruments are observable: European expertise in French local authorities is mainly limited to European affairs services, but this framework, by forcing local authorities services to work hand in hand and by forcing different types of local authorities to cooperate between each other, may reveal itself in the long run to be one of the main driver of French local authorities Europeanization (here understand as the mainstreaming of European expertise at the local level).

## Bibliography

- Andenæs M., Bekkedal T., Davies J., & Szyszczak E. (eds.), *Developments in Services of General Interest*, T.M.C. Asser Press, La Haye, 2011.
- Belloubet-Frier N., "Vers un modèle européen d'administration locale ?", *Revue française d'administration publique*, 2007, vol. 121-122, n°1, p. 5-18.
- Blauberger M., "European State Aid Control in the New Member States – The Examples of Poland and the Czech Republic", *Paper prepared for the EUSA Tenth Biennial International Conference*, Montreal, 17-19 May 2007.
- Börzel T. A., "Towards Convergence in Europe? Institutional Adaptation to Europeanisation in Germany and Spain", *Journal of Common Market Studies*, 1999, vol. 37, n°4.
- Börzel T., "Pace-setting, foot-dragging, and fence-sitting: member state responses to Europeanization", *Journal of Common Market Studies*, 2002, vol. 40, n° 2.
- Börzel T., Dudziak M., Hofmann M., Panke T., & Sprungk C., "Recalcitrance, inefficiency, and support for European integration : why member states do (not) comply with European law", *Center for European studies working paper*, n° 161, Harvard University Press, Cambridge, 2007.
- Börzel T. & Risse T., "Conceptualizing the domestic impact of Europe", in Radaelli, & Featherstone, *The Politics of Europeanisation*, Oxford University Press, Oxford, 2003.
- Boudon R., *Effets pervers et ordre social*, Presses Universitaires de France, Paris, 1977.
- Bouleau G., "L'épreuve de la directive-cadre européenne sur l'eau", *Responsabilité et environnement*, 2008, vol. 49, n° 1.
- Brillet E., "Le service public « à la française » : un mythe national au prisme de l'Europe", *L'Économie politique*, 2004, vol. 24, n° 4.
- Caporaso J., Cowles M. G., & Risse, T. (eds.), *Transforming Europe: Europeanization and Domestic Change*, Cornell University Press, Ithaca, 2001.
- DiMaggio P., Powell W.W., "Introduction", in Powell, DiMaggio (eds.), *The New Institutionalism in Organizational Analysis*, University of Chicago Press, Chicago, 1991.
- Dolowitz D., & Marsh D., "Who learns what from whom: a review of the policy transfer literature", *Political studies*, 1996, vol. 44, n° 2.
- Duina F. G., *Harmonizing Europe. Nation-States within the Common Market*, State University of New York Press, New York, 1999.
- EPPIE, "Introduction – Analyser l'Européanisation des politiques publiques", in Palier & Surel (eds.), *L'Europe en action : l'européanisation dans une perspective comparée*, L'Harmattan, Paris, 2007.
- Falkner G., Treib O., Hartlapp M., & Leiber S. (eds.), *Complying with Europe: EU harmonisation and soft law in the member states*, Cambridge University Press, Cambridge, 2005.
- Gilbert C., & Henry E., "La définition des problèmes publics : entre publicité et discrétion", *Revue française de sociologie*, 2012, vol. 53, n° 1.
- Guigner S., "L'européanisation cognitive de la santé : entre imposition et persuasion", in Baisnée, & Pasquier, *L'Europe telle qu'elle se fait : européanisation et sociétés politiques nationales*, CNRS éditions, Paris, 2007.
- Guigner S., "Pour un usage heuristique du néo-institutionnalisme Application à la « directive temps de travail »", *Gouvernement et action publique*, 2012, vol. 3, n° 3.
- Hall P., "The role of interests, institutions and ideas in the comparative political economy of the industrialized nations", in Lichbach and Zuckerman (eds.), *Comparative Politics. Rationality, culture, and structure*, Cambridge University Press, Cambridge, 1997.
- Hecl H., *Modern social politics in Britain and Sweden: from relief to income maintenance*, Yale University Press, New Haven, 1974.

- Hupe P., Hill M., & Nangia M., "Studying implementation beyond deficit analysis: The top-down view reconsidered", *Public Policy and Administration*, 2014, vol. 29, n° 2.
- Kassim H., & Le Galès P., "Exploring Governance in a Multi-Level Polity: A Policy Instruments Approach", *West European Politics*, 2010, vol. 33, n° 1.
- Kingdon J. W., *Agendas, Alternatives and Public Policies*, Little Brown and Co., Boston, 1984.
- Knill C., & Lehmkuhl D., "How Europe matters: different mechanisms of Europeanization." *European Integration online Papers (EIoP)*, 1999, vol. 6, n° 3.
- Koukiadaki A., "EU governance and social services of general interest: When even the UK is concerned", in Barbier, J.-C. (ed.), *European Integration online Papers (EIoP)*, 2012, vol. 16, Special mini-issue 1.
- Lascombes P., "Normes juridiques et mise en œuvre des politiques publiques", *L'Année sociologique*, 1990, vol. 40.
- Lascombes P. & Le Galès P., "Introduction: Understanding Public Policy through Its Instruments—From the Nature of Instruments to the Sociology of Public Policy Instrumentation", *Governance*, 2007, vol. 20, n° 1.
- Le Galès P., "Est maître des lieux celui qui les organise: how rules change when national and European policy domains collide", in Stone Sweet, Sandholtz, & Fligstein (eds.), *The institutionalization of Europe*, Oxford University Press, Oxford, 2000.
- May P. J., "Policy Learning and Failure", *Journal of Public Policy*, 1992, vol. 12, n° 4.
- Palier B., & Surel Y., "Les « trois I » et l'analyse de l'État en action", *Revue Française de Science Politique*, 2005, vol. 55, n° 1.
- Pasquier R., & Weisbein J. (eds.), "L'Europe au microscope du local", *Politique européenne*, 2004, vol. 12, n° 1.
- Sabatier P. A., "Top-down and Bottom-up Approaches to Implementation Research: A Critical Analysis and Suggested Synthesis", *Journal of Public Policy*, 1986, vol. 6, n° 1.
- Saurugger S., "Beyond non-compliance with legal norms", Radaelli & Exadaktylos (eds.), *Research Design in European Studies: Establishing Causality in Europeanization*, Palgrave Macmillan, Basingstoke, 2012.
- Scharpf F. W., "Negative and positive integration in the political economy of European welfare states", in Marks, Scharpf, Schmitter, & Streeck (eds.), *Governance in the European Union*, SAGE Publications, London, 1996.
- Schmidt A. V., & Radaelli C., "Policy Change and Discourse in Europe: Conceptual and Methodological Issues", *West European Politics*, 2004, vol. 27, n° 2.
- Schmidt, Vivien A. "Discursive institutionalism: The explanatory power of ideas and discourse." *Political Science*, 2008, vol. 11, n° 1.
- Schön D.A., Rein M., *Frame reflection: toward the resolution of intractable policy controversies*, Basic Books, New York, 1994.
- Thielemann E. R. "Institutional limits of a 'Europe with the Regions': EC state-aid control meets German federalism" *Journal of European Public Policy*, 1999, vol. 6, n° 3.
- Tholoniati, L. "The Career of the Open Method of Coordination: Lessons from a "Soft" EU Instrument", *West European Politics*, 2010, vol. 31, n°1.
- Treib O., "Implementing and complying with EU governance outputs", *Living Reviews in European Governance*, 2006, vol. 1, n° 1
- Versluis E., "Even rules, uneven practices: opening the black box of EU law in action", *West European Politics*, 2007, vol. 30, n° 1.
- Woll C. & Jacquot S., "Using Europe: Strategic action in multi-level politics", *Comparative European Politics*, 2010, vol. 8, n° 1.