

CEEP Opinion on the EU Water Policy

The European Centre of Employers and Enterprises providing Public services (CEEP) gathers enterprises and organisations from across Europe, both public and private, at national, regional and local level, which are public employers or providers of services of general interest. CEEP is one of the three European cross-sectoral Social Partners; its members employ a quarter of the workforce in the EU. Many CEEP members are involved in the water sector.

I. General remarks:

Services of general interest such as the water services always need to be provided, no matter how economic times are. They are an essential element of European societies and citizens' everyday life. And, as traditions and conditions vary among the EU member states, their organisation needs to be decided upon at national, regional and local levels.

Already in 2004, the European Parliament voted for a prudent "modernisation" and not for a liberalisation of the European water sector, comprising water supply and waste water services.⁽¹⁾ This requires a well defined analysis of several challenges concerning water, which may be summarised as the "special conditions" that make this important resource unique amongst the services of general interest. CEEP, as a representative of the European water sector, would like to contribute to this discussion and provide its view on specific water issues, especially in view of the new European Parliament and the new Commission.

CEEP sees its position as a contribution to the fundamentals agreed upon in the Lisbon Treaty with its explicit commitment to sustainable development and a high level of environmental protection in the EU. This treaty finds in CEEP a natural supporter, as CEEP demands an economically reasonable, socially balanced, environmentally responsible and democratically controlled infrastructure.⁽²⁾

CEEP would also like to state that its members feel committed to contributing to Europe reaching its aim of being a modern and efficient example to the world in the way it develops and safeguards sustainable infrastructure in this fundamental sector of human life.

The Lisbon Treaty also explicitly mentions the right to regional and local self-government. As water services are anchored on a local level, it is crucial for local authorities to decide independently on how water services are organised; this includes the entrustment of third parties as well as in-house solutions.

Where necessary these services can only be improved and further developed through an enlarged and fair discussion between the various partners. CEEP is ready to embark on a confident and open dialogue with the institutions of the EU.

¹) Report on the Green Paper on services of general interest (COM(2003) 270 – 2003/2152(INI)) as of 14 January 2004

²) In this circumstance it may be allowed to attest that a functioning infrastructure - free of cyclical economic variations caused for example by the present financial crisis - strengthens the acceptance of the democratic political system.

II Definition by distinction

Sometimes the liberalisation of telecommunications is still seen as the best example of the competition- / market- / regulatory- policy since the introduction of The Single Market in 1992. The telecommunications sector seems to be the success story "sui generis" for the supporters of the Internal Market policy of the past years. (However, even in this field, there are still shortcomings in terms of access for all consumers and in combating e-exclusion.)

But there are significant differences between the telecom-sector and other network services: CEEP has to state that the above mentioned results and successes within the telecommunication sector are not applicable to water understood as the supply of drinking water and the collection and treatment of waste water. The supply of water and the collection of waste water are natural monopolies at local levels. Water is a biological resource, a staple commodity that is essential to life and cannot be reduced to a mere commercial product. Moreover, the success of the telecommunications sector was mainly possible because a technological revolution had taken place in the sector to which the market conditions had to fit by a policy of deregulation.

The environment and the health of people depend on water services, which face:

- a) The need for a sustainable water cycle;
- b) The fact that water is not produced but merely borrowed from nature;
- c) The political value of water.

Therefore water does not belong to the category of goods as understood in relation to the free movement of goods set in the treaties.

Furthermore, and due to these three general peculiarities, water services are vitally different from other types of services. Points (a), (b) and (c) may be highlighted by emphasising the following facts:

- Water resources are an integral part of nature. They are to be protected as they define the conditions of human existence as such. Accidents (e. g. in industrial plants) and malfunction relating to the water cycle may have a direct impact on life and public health: No water, no life.
- Water and its purification are usually based on systems that span over large areas. It is necessary to guarantee a high level of ecological and health standards in these extended systems.
- Drinking water and waste water services are natural monopolies. Individual consumers cannot choose their service provider. Competition in the market is therefore not possible.
- The provision of water and the waste water services are to be carried out with a high degree of environmental and health considerations. They must not be subject to primarily economic objectives; instead it is crucial for the environment that water is taken and returned sustainably. Water policy always has to be part of an integrated policy that takes into account the regional and local peculiarities.
- Whatever the legal status of the operator of drinking water and waste water services, their performance is a major public concern and the delivery a major public obligation. It is up to the public authorities to guarantee well-functioning services.

In the following chapters CEEP would like to touch briefly on some important aspects in the water discussion. Papers elaborating on these points will be presented to the EU-institutions during the autumn/winter of 2009-2010

III. Transparency in the water sector

Political decision-makers and the public often wish a greater degree of sector transparency with a view to the socio-economic role of the water sector (basic information on investments, jobs etc.). Water service suppliers not only have to take economic efficiency into account; they also have to consider e. g. public health, security of supply, water resources typically being available only locally, limited possibilities of transport and therefore efficiency, environmental impacts and sustainability. It would thus be insufficient to focus only on economic aspects.

Therefore the water sector must be considered different from, and incomparable to, other industrial sectors in The Internal Market. The main goal of the public supply of drinking water is and remains the reliable supply of high-quality foodstuff at affordable prices in line with the principle of cost recovery whilst ensuring security of supply to the highest possible degree.

This goal can be assessed for water service suppliers (drinking water and waste water services) (*e.g.* by an audit system).

IV. Environmental Duties

Water does not know borders; it does not stop at national or political frontiers. Coastal water and groundwater also belong to the water system. Interaction takes place between surface water and groundwater.

Water is something unique: unlike other commodities it can not be produced artificially. As a quantitatively limited and non-producible resource, borrowed from the natural water cycle, purified to be used as drinking water, and made available to the consumer, it must finally be returned as treated water to the natural cycle.

In this environmental context, a responsible resource management must also take into account the challenge of climate change which concerns the water sector. This means primarily that the impact of climate change on the water sector must be evaluated taking into account the different consequences for the various regions of Europe (there is no one-size-fits-all approach). The challenges must be met and strategies developed. Also, related issues will have to be dealt with such as contamination, erosion and the dehydration of soil as well as the problem of floods.

V. Internal Market:

The Lisbon Treaty reconfirms expressly the freedom of scope of local authorities to decide about the management of the water services.

Article 4 of the new Treaty of the European Union states that the Union shall respect the national identities, inclusive of regional and national self-government and that it shall respect their essential state functions.

Article 5 states that under the principle of subsidiarity the Union shall only act if the objectives of the proposed action cannot be better achieved by the member states or their subentities at regional or local level. For the water sector, which is mainly organised by local authorities, this means that it should be up to the municipalities to decide how they would like to shape the provision of water.

Water services are regarded as services of general interest. Concerning services of general interest the Lisbon Treaty confirms, in the protocol on Services of General Interest, the essential role and wide discretion of national regional and local authorities in providing, commissioning and organising services of general economic interest as closely as possible to the needs of the users. It also mentions the high diversity between the services and the differences in the needs of users that result from different geographical, social and cultural situations.

Therefore the treaty does not create any political or practical obligations or rights to commercialise or liberalise the water sector.

CEEP welcomes these new provisions and would like to highlight the right to give each local/regional/national authority the choice to decide which form of management and legal status it prefers concerning water services according to the national, regional and local situation (either by entrusting their own department, or their own enterprise (in-house), or resorting to a PPP or to a private operator through a concession). The choice “private or public” should always remain a local prerogative of the competent authority.

CEEP Conclusions and perspectives

1. Water is no product, but a unique commodity, that cannot be produced artificially. Environmental and health considerations are particularly essential.
2. Water needs its special place in the European Single Market, particularly with regard to the European Internal Market rules.
3. The Lisbon Treaty needs to be implemented, giving competent authorities the freedom of choice when organising water services.
4. Water supply and waste water services must not be subject to mandatory tendering procedures.
5. Inter-municipal co-operation should be respected.

On the basis of the position highlighted above, CEEP would be happy to further discuss the challenges and perspectives of the water sector in order to continuously improve the services provided in the interest of the consumers.
