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The political economy of water services in the EU

1. Introduction

Water is known to be the source of life, a scarce resource, a human right, an investment opportunity, an essential service. The cross-cutting importance of water concerns natural environment, as affected by the climate crisis; the economy, as water services are often managed by companies; and social reproduction, because it is necessary for surviving.

In the current division of competences between the EU and its member states, water services policy is still a national competence. Yet, there is increasing legislation on the issue also at the EU level, both in the form of directives and regulations and more recently with other forms of macro-economic policy coordination. Moreover, water is gaining increasingly attention in the transnational policy arena, as evidenced by the United Nations (UN) water conference that took place in March 2023. The European Social and Economic Committee has undertaken water as a cross-cutting issue for 2023, and is holding hearings with civil society actors, working towards a “Call for an EU Blue deal”¹. While the content of this call will be public at the end of 2023, in the meantime it is clear that water is gaining prominence in the EU political agenda and in the policy arena.

To inform such debates, in this paper I provide an overview of water policy in the EU, in its content, historical evolution, actors involved; also how it triggered transformations of the water sector and social

¹ See <https://www.eesc.europa.eu/it/agenda/our-events/events/eu-blue-deal>

conflict on water privatization. While taking a sectoral approach, the paper contributes to the literature on the critical political economy of the EU integration process and its contestation (Bieler 2002, 2021; Horn e Wigger 2016; Huke, Clua-Losada, e Bailey 2015; Ribera-Almendoz 2017; Van Apeldoorn 2000). In order to do so, I employ a critical policy perspective, that understands policy within broader transformations of the state and within the structuring conditions of the social relations of (re)production(Giannone e Cozzolino 2022). This implies giving a central role to *history*, seen as the “contingent result of the dialectical relation between structure(s) and socio-political agency” (Giannone and Cozzolino 2022:114), to *the structure of the economic sector*, and finally to the social conflict engendered. Hence, in the paper I outline the historical evolution of water policy in the EU, its outcome of the organization of the water sector in the EU today, and an assessment of the impact of the water social movement at EU level.

2. Early legislation and environmental goals

Legislation on water at the EU level emerged in 1970s-80s and it was focused on water quality standard, hence it is commonly considered with environmental goals. Social concerns were not present, because intended as member states’ prerogatives (Szabò 2019:9). Overall, environmental legislation on water quality standards is considered to have improved raw water sources (Hall e Lobina 2007) and to have a “de-commodifying” effect because taking water quality out of competition through the setting of EU-wide standards (I. Szabó 2019).

The directive on water intended for human consumption, commonly known as “Drinking Water Directive” 80/778/EEC set minimum quality standards for drinking water. In Hall and Lobina’s (2007) take, this was the first legislation impacting local operators, because causing costs on urban water supply and sanitation operators. The other piece of legislation having a much greater impact was the Urban Waste Water Directive 91/271/EEC. In fact, the thresholds, or standards of quality, set by the directive, required major investment in wastewater treatment plans – it has been argued “the largest common infrastructure project undertaken by the EU in its history” (Hall e Lobina 2007), According to Szabó

(2019), these great costs had the economic consequence of transforming the financing models of investment in the water sector. In fact, such financial need could not be met by municipalities alone – nor member states in the context of the Maastricht deficit and debt requirements - and hence implied greater involvement from the private sector. This was especially the case in accession states – east European countries at the time (Hall and Lobina 2007).

3. The water framework directive as a marking point

The Water Framework Directive started to be developed in the 1990s and after consultations entered into force in 2000. According to Kaika (2003:300), the decision to develop such a framework stemmed from the then already-happening changes in the water sector: the increasing environmental concerns, but also the shift from government to governance, and the accompanying increased liberalization and internationalization, which as a consequence had the multiplication of actors involved in decision-making and centers of power.

The ambitious goal of the reform was to provide a general common framework to water management in member states, combining earlier legislation. Importantly, next to standard of environmental protection, this directive addresses also water *management* – as a tool to address such objectives.

This new approach to water management, defined as *combined* and *integrated*, was based on the introduction of river basins and on the consideration of water quality together with emissions controls and groundwater protection (Kaika, 2003:300). The introduction of river basins as administrative units in particular was a fundamental change for the sector as it implied creating new institutions and hence impacting severely local authorities. In Kaika's (2003:306) words: "the WFD recasts the relationship between the physical, political and administrative boundaries".

The directive marks another important shift in water governance by underlining the importance of including participation in river basin management planning. However, participation as a principle while often considered a quick fix, should rather be defined and considered within power relation(Ahmed

2007:589). Indeed, for the development of WFD itself, Kaika (2003) notices how participation meant simply consultation with the relevant actors – called stakeholders – and how this implies favoring those groups with an office located in Brussels and staff dedicated to European policy. The author also shows how conflicts between actors with opposing interests – e.g. water suppliers, agricultural industries, chemical industries, environmental NGOs, etc. – ended up being reflected in the heated negotiations between the European Parliament and the Council of Ministers in their response to the commission draft; disagreement was on the implementation timeline, the introduction of groundwater protection, and water pricing (Kaika 2003:306). The latter is indeed the other major shift in water governance marked by the directive, which introduces the full cost recovery principle. According to Szabò (2019:14) this is the most important in political economic terms, since it “guides the European water sector towards a more commodifying direction and can have a socially negative impact on households through increased prices.”

The issue of full cost recovery – that translate into water pricing – is connected to environmental concerns, since it is understood as a tool towards environmental objective, with the stated objective favoring efficient allocation of water resources. However, pricing has also implications in terms of social concerns, as the directive also notices by mentioning affordability. By reviewing documents produced by the Commission and related agencies, Szabò (2019:14) shows that cost recovery is intended to be the primary principle, eventually accompanied by state measures to address social concerns; however, in the directive this is left to interpretation and application by member states. The issues of pricing embodies the key contradiction in the directive which on the one hand recognizes in the very beginning of the text the social importance of water, “not a commercial product like any other”, but on the other hand conceives it as best managed through market principles – such as pricing. As Kaika’s (2003:303) marks in relation to the text of the WFD: “the discursive representation of water attempts to strike the rather unattainable balance between a widely accepted social role as a public good and a heritage and its newly inflated economic role as a market commodity”. The interplay between economic, environmental and social principles, embodied in the WFD, is a key aspect of EU policy on water services, as we will see throughout the next sections.

4. Internal Market and Local Public Services

In the previous sections we have seen how water has been legislated upon at the EU level as part of the environment – however, water supply and sanitation are also local public services. In this section, we review the directives regarding services and the public sector and their impact on water legislation.

Water as part of network industries is included in the public procurement directives ²– aimed at promoting market competition for public tenders – Hall and Lobina (2007:66) argue that the effect “has been to increase the likelihood that municipal enterprises must compete with the private sector for business”.

The “Services in the Internal Market” directive (2006/123/EC), so called “Bolkestein directive” was aimed at liberalization of all the sectors within services. While first on its agenda, water was in the end excluded from the scope of the directive – Szabò (2019:5) argue that this was due to pressures from civil society and social movements. The author also argues that following this, the debate on water shifted from competition within the market to competition for the market, through procurement and concession – both directives having a similar goal of “regulated liberalization” (Szabò 2019:8).

The specifics of concession contracts are regulated by the Concessions Directive (2014/23/EU). Concessions are a particular type of contractual agreement between the public sector and a private company, in which the company is allowed to run the service and exploit it (as opposed to a public contract in which the company is paid a fixed amount by the public authority to provide a service)³. This is a type of contract common in the water sector, because at the core of the business model of the two French water multinationals Suez and Veolia. Here again, water was supposed to be included in the scope of the directive, but ended up being excluded because of the politicization on the topic in that

² The first public procurement directive was in 1990, then updated in 2004 and 2014

³ See <https://single-market-economy.ec.europa.eu/single-market/public-procurement/legal-rules-and-implementation/concession-contracts>

period given by the European Citizen Initiative (ECI) on the Right to Water (R2W) . We will explore in detail the ECI, its content and impact in section 7.

5. The impact of economic and fiscal policies on water services

We have reviewed how water services policy has been subject to directives on environmental standards, and on the liberalization of services; however, it is important to note that domestic water services as part of the public sector have been also influenced by EU economic and fiscal policies. Hall and Lobina (2003:65) make early the case that economic and market policies while impacting public finances also influenced water services as part of local public services and of the public sector, and they argue that the introduction of rules on debt and deficit levels in 1992 encouraged the restructuring of state-owned enterprises to reduce debt and hence involving the private sector for financing through Public-Private Partnerships. This is all the more evident throughout the Eurocrisis, in the context of austerity policies.

Sale of state-owned enterprises including water operators was part of the conditionalities included in the Memorandums Of Understanding (MoU) linked to bailout agreements in Greece and Portugal (Bieler e Jordan 2018). Also in Ireland, the introduction of water charges was part of the “structural reforms” required by the MoU between the Irish government, the Troika, the EC, the IMF and ECB and featured in the “economic adjustment program” published in 2011 (Szabò 2019). In Italy, the introduction of the Stability and Growth Pact at the local level rendered in effect more difficult for municipalities to directly manage water services and hence incentivized corporatization and private sector participation (Galanti 2016).

In the aftermath of the crisis, new mechanisms of macro-economic policy coordination were put in place – which has led scholars to study the New Economic Governance framework (NEG) (Erne 2018). Through the European Semester, of which the key actor is the EC, Country-Specific recommendations are issued yearly on the economic and fiscal measures required – that will be then assessed through country-specific reports (Erne 2015). By reviewing these documents in four countries (Germany, Ireland, Italy and Romania), Szabò (2019:15) concludes that the main trend in these is the commodification of

water, through a pro-market interpretation of environmental principles – specifically, of the full cost recovery principle discussed in the previous section. While water is mentioned directly only for the case of Ireland, he makes the case that it is included in recommendations on improving market access and promoting competition in network industries (Szabò 2019:15).

More recently, also the measures forecasted by the Recovery and Resilience Plan had an impact on water services management and governance – for example, in 2021 in Italy there were heated discussions around the annual parliamentary law for Market and Competition (so called ‘DDL Concorrenza’) on the re-organisation of public services to promote competition. The common rationale was pressure towards delegation through tender (against direct management), harmonization among sectors, and re-organization of competences between levels and regulatory powers. From civil society, the law has been criticized as a push from marketization, disempowering public authorities particularly at the local level.

6. The water services sector in Europe today

In this section, I provide an overview of the organization of the water services sector in the EU, partly as an outcome of the policies illustrated above, and partly dependent on national and international developments. While data on the specific water companies is fragmented, yet I will try to paint a picture of how the sector is structured.

There are four main management models in which domestic variants can be grouped, according to a recent report⁴ by Eureau, the European Federation of National Associations of Water Services. These models are defined as: direct public management, delegated public management, delegated private management, and direct public management. The first, delegated public management, is most commonly related to management of local authorities, and it was the dominant management model in Western Europe during the 20th century, that was indeed labelled as a “municipal phase” . This phase came to an end in most countries during the 1990s, in the context of the global shift towards neoliberal policies.

⁴ The report can be found here: <https://www.eureau.org/resources/publications/150-report-on-the-governance-of-water-services-in-europe/file>

Delegated public management is the system in which the public authority appoints a separate company for the management, usually owned by the public authority itself with the possibility of also private shares. This model refers to what is known as “corporatization” and is in line with the principles of New Public Management, which uphold that inefficiencies of the public sector can be addressed by applying an entrepreneurial, private-sector logic. Often, such phenomenon blurs the boundary between public and private, since the ownership is public, but the operational logic is private; hence, it has been argued that it is a form of privatization (Bakker 2010). The delegated private management refers to when the public authority retains ownership of the infrastructure but appoints a company to run and exploit the service – this is the case of the concessions contract, which is historically linked to the transnational corporations Suez and Veolia in France. Finally, in the direct private management model, the property of the service – including the infrastructure – is privately owned. This was the reform enacted by the Thatcher government in the UK in the late 1980s.

The fourth model is present only in the UK and Czech Republic, while mostly in the other countries there is a mix of the first three. However, there is a clear predominance of concessions in France, for historical reasons, and a predominance of the public – direct or delegated – in the rest of continental and Nordic European countries. The overall EU tendency identified by Eureau is that of delegated – either public or private – management, which should come as no surprise since this was encouraged by EU policies as we have seen in the previous sections. Another tendency happening mostly in western European countries, including France, is that of re-municipalization⁵, that means the return to public management by local authorities (McDonald 2018; McDonald e Swyngedouw 2019). Indeed this has been pushed by social movements, at both the domestic and European level. In the next section, we explore in detail the European mobilization around the right to water, that culminated with the success of a European Citizen Initiative.

⁵ This will be explored in detail in another chapter of the thesis

7. The right to water: European Citizen Initiative

A European Citizen Initiative (ECI) is a mechanism introduced by the Lisbon Treaty in 2009 with the aim of enhancing direct democracy in the EU⁶. An ECI can be launched by an organizing committee, in order to propose EU legislation on a certain issue, needs to be registered by the EC and then in order to be successful it must reach 1 million signatures from citizens of at least a quarter of the EU member states. If successful, the EC guarantees a meeting with EU officials, a public hearing at the EP, and a formal reply from the EC stating how it addresses the proposal.

The ECI “right2water”(R2W)⁷ was launched in 2012, and it reached well over a million signatures by 2013; it was the first ECI to be successful. The main supporter of the initiative was the European Federation of Public Services Unions (EPSU); other supporting organizations were the European Anti-Poverty Network, the European Public Health Alliance, the European Environmental Bureau. The three pillars of the ECI R2W were: Guaranteed water and sanitation for all in Europe; No liberalisation of water services; Universal (Global) access to water and sanitations.

The ECI R2W has ignited considerable academic attention, because it has been the first of its kind to be successful, and also because it deals with an issue that has been subject to protests and political contestation in many of the member states. Reviewing such literature, it emerges that it has mostly focused on three aspects: the contextualization within the water justice movement, at the local, national and international level; the factors that led to its success, and finally assessing its impact.

The human right to water was recognized by the UN general assembly following a successful campaign started in the 2000s organized by what has been called Global Water Justice movement: “made up of environmentalists, human rights activists, indigenous and women’s groups, small farmers, peasants and thousands of grassroots communities fighting for their local water sources” (Karunanathan 2019). Transnational links and connections with activists of the global justice movement, including the World

⁶ See https://europa.eu/citizens-initiative/_en

⁷ See <https://right2water.eu/about>

Social Forum, are identified as one of the factors that ensured the success of the ECI (Bieler 2017). Moreover, literature has shown how the ECI built on national water movement: mobilization in Berlin, in many Spanish cities, attempts at re-municipalization across Europe to name a few; moreover the framing of water as a commons took inspiration from the campaigning for the referendum against water privatization in Italy. (Bieler 2021; Van de Berge et al. 2021).

Summing up, the factors that contributed to the success of the initiative identified by the literature are: the broad coalition of trade unions, social movements and civil society associations (Bieler 2021; Szabó et al. 2022), the symbolic meaning of water as part of social reproduction, with being essential for life (Bieler 2021); the already mentioned pre-existing movements at the domestic level (van den Berge et al. 2022; Bieler 2021) structural conditions, namely vertical pressure that triggered social movements reactions (Szabó et al. 2022).

As foreseen in the mechanism of the ECIs, the Commission guaranteed a meeting with the organisers, a public hearing at the EP, and issued a response⁸ to the initiative. In this response, the Commission reiterates that water services management is competence of member states; mentions that water was excluded from the Concessions directive as a result of public concerns; and launches an EU-wide consultation for the recast of the DWD directive. Indeed, in the proposal of the EU commission for the recast of the DWD the right to water is mentioned, as a direct result of the ECI, but in non-binding manner. While the details on the decision-making around the DWD will be discussed elsewhere⁹, it is important to note that the right to water is conceived regarding water access – while water management is not mentioned, although it was one of the pillars of the ECI (‘no liberalisation’). This is probably reflecting the Commission’s response that water services management is competence of the member states; however, we have seen throughout the paper how it was anyway influenced by EU legislation.

⁸ See https://ec.europa.eu/commission/presscorner/detail/en/IP_14_277

⁹ This is another chapter of my PhD thesis

The answer of the EC was considered lacking from organizers¹⁰. This is also due to the structural constraints of EU policy-making and the non-binding nature of ECIs. However, many other outcomes have been linked to the initiative. Scholars have underlined the bridging and nurturing of transnational links of solidarity (Bieler 2021), the already mentioned exclusion from the Concessions directive ((Bieler 2017; Parks 2015; I. Szabó 2019), and more generally the putting of water on the political agenda, changing the public discourse around it (van de Berge et al. 2022)

8. Conclusion

In this paper, I addressed the political economy of water services in the EU, through a critical policy analysis. First, I provided an historical overview of water services policy in the EU, at the intersection of legislation on environmental standards and public services, and at the same time influenced by economic and fiscal policies. Then, I mapped an overview of the structure of the water sector nowadays and finally I discussed the impact of social movements through the illustration of the ECI R2W, in its content and impact.

Summing up, several important themes emerge from the discussion: the interplay between budgetary and environmental concerns, especially in the principle of full cost recovery, that has been introduced for environmental reasons but it is in practice used to address budgetary rules; the presence of different models of water provision in EU member states, which in turn inform the legislation at EU level; the emergence of a social movement, at the domestic and EU level, against water privatization, that has managed to change the public discourse around water, including social concerns into environmental ones and politicizing the debate on liberalization. Through a critical political economy lens, water services emerge as a policy area that is non-linear, embedded in actors' power relations and transformations of the state, hence historically specific and politically contested.

¹⁰ <https://www.epsu.org/article/epsu-welcomes-vote-drinking-water-directive-and-step-realise-right2water-eu-legislation>

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