

MORAIS BISMARQUE GASPAR Ana Gloria

From: Christophe Scius [REDACTED]
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To: Euro-Ombudsman
Subject: [EOWEB] SUEZ ENVIRONNEMENT'S comments on Ombudsman's consultation on EUROPEAN CITIZEN INITIATIVE
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Sender Christophe Scius [REDACTED]
To The European Ombudsman
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Your data**Part 1 - Contact information**

First name	Christophe
Surname	Scius
Gender	Male
E-mail address	[REDACTED]
Language you would like to receive an answer in	en - English
Other language you would accept an answer in (if applicable)	fr - français

Part 2 - Data

To The European Ombudsman
Subject SUEZ ENVIRONNEMENT'S comments on Ombudsman's consultation on EUROPEAN CITIZEN INITIATIVE

As a private water services company, SUEZ ENVIRONNEMENT was directly concerned by the first successful European Citizen Initiative "Right2Water" as the subject of this ECI was Water / Waste Water. We closely followed the evolution of the ECI and tried to be heard in all the debates that took place.

We would like to thank the Ombudsman for this initiative, hoping it will make the ECI a more effective tool for democracy in the EU. We will not be giving answers to all the questions put forward by the Ombudsman as we did not organize an ECI ourselves. However, having closely followed the process, and being close to some of the ideas put forward in the "Right2Water" ECI, we believe it useful to give our point of view on the subject.

Content We have specific remarks and propositions for improvement on three aspects of the ECI:

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SUEZ ENVIRONNEMENT

TOUR CB21
16, PLACE DE L'IRIS
92040 PARIS LA DÉFENSE CEDEX, FRANCE
TEL +33 (0)1 58 81 20 00
FAX +33 (0)1 58 81 25 00
WWW.SUEZ-ENVIRONNEMENT.COM



EUROPEAN PUBLIC AFFAIRS DEPARTMENT

SUEZ ENVIRONNEMENT's comments on Ombudsman's consultation on the European Citizen Initiative

March 2014

Interest Representative Identification Number: 27799842497-69

Summary

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Introductory remarks

As we were not organizers of an ECI ourselves we will limit our comments to the phases where we felt that we could have been associated, or where we felt attacked without being able to enter into a discussion that could have been beneficial for EU democracy. We will be taking the "Right2Water" ECI as an example, as it is the only one we followed closely as a corporation. As an outsider with direct interest in the process of the first successful ECI we believe our remarks can be useful in improving this new democratic tool.

We would first like to thank the organizers of the "Right2Water" ECI for bringing on the front stage a subject that is at the heart of SUEZ ENVIRONNEMENT's preoccupations since it started operating water services (1880 for Lyonnaise des Eaux in France).

SUEZ ENVIRONNEMENT wishes to recall its strong support for the recognition of the "*human right to water and sanitation*". SUEZ ENVIRONNEMENT committed itself at an early stage to the achievement of the Millennium Development Goals, accompanying as of 1990 emerging countries in connecting people to drinking water and sanitation services¹.

SE also supports the inclusion of Right to water in the EU charter on Human Rights.

Since 1990, the presence of SUEZ ENVIRONNEMENT in developing countries enabled to connect:

- 12.8 million people to drinking water services (of which 10 million by domestic connections);
- 6.6 million people to waste water services.

For years, private water operators have advocated for access to safe drinking water to be recognized as a right. In 2010, they celebrated the United Nations recognition of safe water as a human right. This is because they contribute daily to making the human right to water a reality for people. They have the experience of its different dimensions: quality, affordability and accessibility.

The compatibility of private management of water services with the implementation of the human right to safe drinking water has been carefully studied by governments and lawyers at the United Nations. In 2009, the UN mandated Catarina De Albuquerque as a Special Rapporteur. She found no difference between private operators, public operators and NGOs when they are hired by a public authority to operate its water system. Her official 2010 report is very clear on the matter. This led to the historical resolution of the UN Human Rights Council in September 2010 that recognized access to safe drinking water as a human right embedded in existing international law. The resolution also declares that responsible governments have full capacity to use private companies to fulfil their obligations with respect to this human right².

Issues of drinking water and sanitation are not to be assessed in terms of an opposition between public and private management, but in the possibility to offer the community a choice to adopt the management mode best suited to its own problems. Also, the delegation of public service is not "privatization", but a management type for communities with a range of complementary solutions. In order to best meet their expectations, SUEZ ENVIRONNEMENT developed new governance policies with increased transparency and involvement of all stakeholders (community associations, people ...) to the daily management of services. SUEZ ENVIRONNEMENT also developed new models of social and progressive pricing to take into account the issues of insecurity and resource conservation.

Quality wise SE stays at the top as well as, with for example, the best French bacteriological compliance rate (99.8%) with ten times less nonconformity than other actors.

A number of clients continue to trust the group, with, for example, our contracts in Bordeaux, Dunkerque or Orléans.

¹ See appendix 1

² See for more information: *Private operators delivering performance for water-users and public authorities*, AquaFed, March 2012

10. Please provide any other information or suggestions, in succinct form, that you would consider useful for improving the citizens' initiative procedure.

Preliminary remarks:

The issues we raise intended as constructive remarks to enable the ECI tool to be more effective in reaching its goal.

We are willing to work with all parties involved in the water sector, including, of course, the organizers of the Right2Water ECI, to reach the important goals of safe drinking water and good sanitation for all.

In order to be fully transparent and for our remarks to be taken in a positive way, here is a summary of SUEZ ENVIRONNEMENT's thoughts on the points raised by the ECI:

- ✓ *Support to the implementation of the Right to Water in Europe: Suez Environnement undoubtedly endorses this will, while insisting on the practical implementation of the right;*

- ✓ *Regarding "liberalisation" of water in the EU: this loose expression is disconnected from the reality of the policy of the EU, which does not challenge the possibility for Member States to keep their services "in house".
Even if it is not written in the initial petition submitted to the citizens' signature, this point is now interpreted by its supporters, and generally understood by the public and the media, as "contesting the legitimacy of private operators in water services".
We strongly regret this, and recall that SUEZ ENVIRONNEMENT has, for example, proposals on economic regulation for all actors in the water sector and is fully transparent on our facts and figures.*

- ✓ *The third point of the ECI petition deals with access to water and sanitation outside of the European Union. It is not the topic of this paper, but again SUEZ ENVIRONNEMENT can fully endorse this request, and show through our experience in emerging countries that privately managed services have contributed to a better access to water and sanitation for millions of people during the last two decades.*

We would like to bring to the attention of the Ombudsman three important issues relating to different times of the ECI procedure:

- ✓ The text submitted to citizens for signature and the communication of the organizers;
- ✓ The Hearing at the European Parliament;
- ✓ The signature thresholds.

➤ The text submitted to signature and the messages carried by the organizers

We believe that the clarity of the message and objective of the organizers of an ECI could be improved. The European Commission equally pointed out this issue in its communication on March 19th in response to the ECI "Right2Water"³. We feel there was a difference between the "Object" of the ECI⁴, and the message that was sent out by the organizers and given in the full version of their text, available on a different website.

The object and introductory paragraph⁵ of the ECI were very much focused on the Right to Water and sanitation; making no mention of point number 2 of the ECI⁶. However, in the full text and in the Communication, including in the hearing, point number 2 took a lot more importance, and practical details on how to effectively implement the right to water and sanitation were pushed to the background.

The clarity of the objective sought by the organizers could have been improved if every point they wished the EC to react on were stated in the Object and introductory paragraph.

We believe this lack of clarity sent a confusing message over the "privatization of water services" which are in fact "locally regulated" services. A concession is not a privatization. It is a form of management whereby a mission of the public authority is delegated to an economic operator (execution of works, operation of a service) characterized by the transfer to the concessionaire of an economic risk in exploiting the work or services being the object of the contract. For concessions, the authority always remains the owner of the assets, responsible for the service and the one setting tariffs. For example, private operators never decide tariffs and tariff structures which remain the responsibility of the Public authorities in charge of water services. Tariffs are part of water policy. The operator (public or private) has no choice but to implement these decisions of public authorities. In addition, public authorities can decide to subsidise tariffs. They can do this with a public or a private operator.

Privatisation means that the property of the assets and/or of the capital is transferred to a private company in total or in majority.

Moreover, as pointed out by the EC, the full text of organizers' demands was only available in English. However, we do understand that it is complicated and costly to translate into all official languages of the EU.

³ The link to the Commission's online register was also available on the forms, allowing citizens who wished so to find more detailed information on the initiative, as provided by the organisers in an Annex as part of their registration request. This Annex was available in English only (the organisers did not provide translations of this Annex). This Annex was not necessarily consulted by all citizens who supported the initiative.

⁴ We invite the European Commission to propose legislation implementing the human right to water and sanitation as recognized by the United Nations, and promoting the provision of water and sanitation as essential public services for all.

⁵ Water is a public good, not a commodity. We invite the European Commission to propose legislation implementing the human right to water and sanitation as recognized by the United Nations, and promoting the provision of water and sanitation as essential public services for all. The EU legislation should require governments to ensure and to provide all citizens with sufficient and clean drinking water and sanitation. We urge that:

⁶ Water supply and management of water resources not be subject to 'internal market rules' and that water services are excluded from liberalization

- ✓ The EC could work with the ECI organizers to clarify their message before accepting a new ECI. Ensuring for example that every point they wished the EC to react on were stated in the Object and introductory paragraph
- ✓ A minimum number of languages could be asked to ensure full comprehension of the citizens wishing to get more information; as there is the need for at least seven different member states to be a successful ECI.

➤ The Hearing at the European Parliament

The Hearing at the European Parliament is the most important public event of a successful ECI and represents a major opportunity to present the initiative's requests to the public opinion.

We applaud the democratic exercise this hearing represented, but regret one important aspect, the lack of contradictory debate. The EP is the center of debate for the EU, where all ideas, opinions and positions of the EU citizens are represented. Public and open debate is at the heart of a democratic system, more so in a Union of 28 Member States.

SUEZ ENVIRONNEMENT would have liked to participate to the Hearing, not only in the assistance, but also as a participant; being able to give our opinion and position; defend the Right to water and sanitation that we strive to achieve every day as detailed in introduction; as well as give our view on the point number 2 of the ECI. We felt attacked by the organizers of the ECI, and frustrated that we could not give our answers, our view.

Besides having other interested third-parties involved in a debate, it could equally have been interesting to have internationally recognized experts give their analysis on the subject. Catarina de Albuquerque for example could have been a very valuable speaker, especially given that the ECI organizers made reference to the UN position for which she was rapporteur. Participation of such speakers would have enriched the exchanges and given more visibility to the debate, both within and outside the EU.

We feel that with third-parties the debate could have been more democratic and more constructive on measures to effectively implement the right to access to clean water and effective sanitation.

Provide room for third-parties, experts, and all interested citizens to provide their views and comments according to the usual practice for EU legislative work:

- ✓ Invite third-parties and experts to participate in the debate organized by the EP
- ✓ Invite open comments from all parties, which will be published, to the EC before its answer to the organizers of the ECI.

This will require a time extension for the work of the EC.

This hearing raises a larger question of how the ECIs can better fit into the already vibrant EU democratic functioning. The ECI should be better incorporated into the democratic life of the EU, face opposition, contradiction and bring new ideas to on-going debates.

➤ EU wide support for a text

We fear there could be an issue of a national agenda being pushed at the EU level.

Our will is not to block citizen initiatives, but to ensure that EU wide issues only be addressed at the EU level, when national issues by addressed at national level with the appropriate national democratic tools. A more balanced spread of the required number of supporting signatures across Member States might have to be contemplated.

The threshold, or the number of Member States were the threshold should be

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| <p>✓ A complementary rule that would ensure a more balanced support of the ECI requests across the EU, preventing a single country from pushing national interests against EU interests.</p> |
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We sincerely hope that our remarks will help the ECI be more effective in making the democratic system of the EU more open. SUEZ ENVIRONNEMENT regrets that it had a hard time being heard during this process for a cause that it defends every-day through its 80 000 collaborators.

The European citizen initiative "Right2Water" has shed light on a true challenge of our times, and we will continue to answer these challenges with all interested parties, including the organizers of this ICE.

Appendix 1:

This case study in Alger is also a good example of SE's active engagement for an effective Right to Water and Sanitation.

How to guarantee access to safe water: the case of Algiers*

The Société des Eaux et de l'Assainissement d'Alger (SEAAL) is the water utility in charge of the Algiers region. It is a company 100% publicly-owned by ADE (Algérienne des Eaux) and ONA (Office National de l'Assainissement) and co-managed with Suez-Environnement that provides high level staff through a PPP contract. The initial duration of the contract was 5.5 years starting in March 2006. The contract was renewed and extended geographically in September 2011 for a further 5 years.

In March 2006, only 8% of the population had water on a 24/7 basis. The motivation of the public employees of the company was very low and the customer service was particularly poor. The main performance targets assigned to the operator were therefore to:

- improve the living conditions of the local population through achieving continuous 24/7 water supply within 3,5 years, ensuring 100% potability of water supplied
- improving the performance and coverage of sanitation services
- improve customer satisfaction
- organise and deliver the transfer of knowhow to the 4,500 employees of the company and its 1,000 managers.

Ensuring the continuity of the service

Until 2006, the majority of the population had only water at their taps in an irregular manner, ranging from a few days in a week to a few hours per day. This resulted from obsolete infrastructure and serious water losses in the water network obliging the operator to supply water sector by sector on a rationing basis. Huge efforts have been engaged in all sectors to bring the infrastructure up to standard and reduce leakage. SEAAL and its private partner have fixed 130,000 leaks on the water distribution network. 250 km of network mains and 50,000 communication pipes have been renewed. 350,000 meters have been installed. After 3.5 years, SEAAL has been able to supply drinking water 24 hours a day and 7 days a week in all sectors, thus achieving one of its main objectives.

Securing water safety

In 2006, numerous pollution events occurred resulting from polluted water infiltrating from the ground to water pipes when the water pressure was low. These resulted in non-compliance with potability requirements of 3% of samples of water. Thanks to the efforts made to reduce leaking pipes and to maintain internal pressure on a continuous 24/7 basis, these events have disappeared and the bacteriological compliance of water supplied has reached 100%.

Satisfying water-users' expectations

Customers' satisfaction was not measured before the PPP. When the PPP contract started the monitoring of water-users satisfaction was organised through regular surveys made by an independent external survey organisation. It has risen from 70% in 2007 to 89% in 2010. This increase has resulted from the significant improvement of the water services implemented in Algiers.

Other significant improvements

The asset management skills have been reinforced as part of the wider know-how transfer programme which has been a catalyst for success enabling the management of a massive investment program (\$ 500 millions) committed by the public authorities in support of the actions undertaken by the operator.

55,000 training days have been undertaken from 2006 to 2011, through trained trainers (70% of them are Algerian).

The sanitation system has been dramatically improved. 53% of the wastewater of Algiers is now treated before discharge to the environment against 6% in 2006, with the objective to reach 70% in 2012. 3,300 kilometres of sewerage pipes have been cleaned. 64 out of the 72 beaches of Algiers have been permitted and reopened to the public for swimming during the summer 2011 against only 39 in 2006.

This success has been made possible by closely coordinated and complementary action by the different parties involved, based on a well defined PPP contract that defines precisely and clearly the respective roles. The State has undertaken significant investment; the Water department of the Wilaya has completed major new infrastructure works. Suez has effected a significant transfer of management, modernisation and project management know-how to SEAAL and finally the local teams of SEAAL.

* from the publication: *Private operators delivering performance for water-users and public authorities*, AquaFed, March 2012