

The State EPF a specific tool of the French land policy

Legal aspects and action in practices of the State EPFs
(Etablissement public foncier d'Etat)

Josselin DUPONT

PhD student

Laboratoire SEGEFA, Université de Liège
Institut de Géographie (B11) Allée du 6 Aout
2 Sart Tilman, B-4000 Liège (Belgium)

and

Laboratoire ESO-Rennes, Université Rennes 2
Maison de la Recherche en Sciences Sociales
Place du Recteur Henri Le Moal
35043 Rennes cedex (France)
josselin.dupont@univ-rennes2.fr

Keywords: EPF, France, land policy

Introduction

In the French land policy, recent evolution results in the renewal of a quiet old, specific and successful tool: the Etablissement Public Foncier (EPF). There is two ways to create an EPF: by State's will or following a demand of local authorities. This determines the legal structure of the two possible types of EPF: Local EPF (EPFL) and State EPFs which this paper is about.

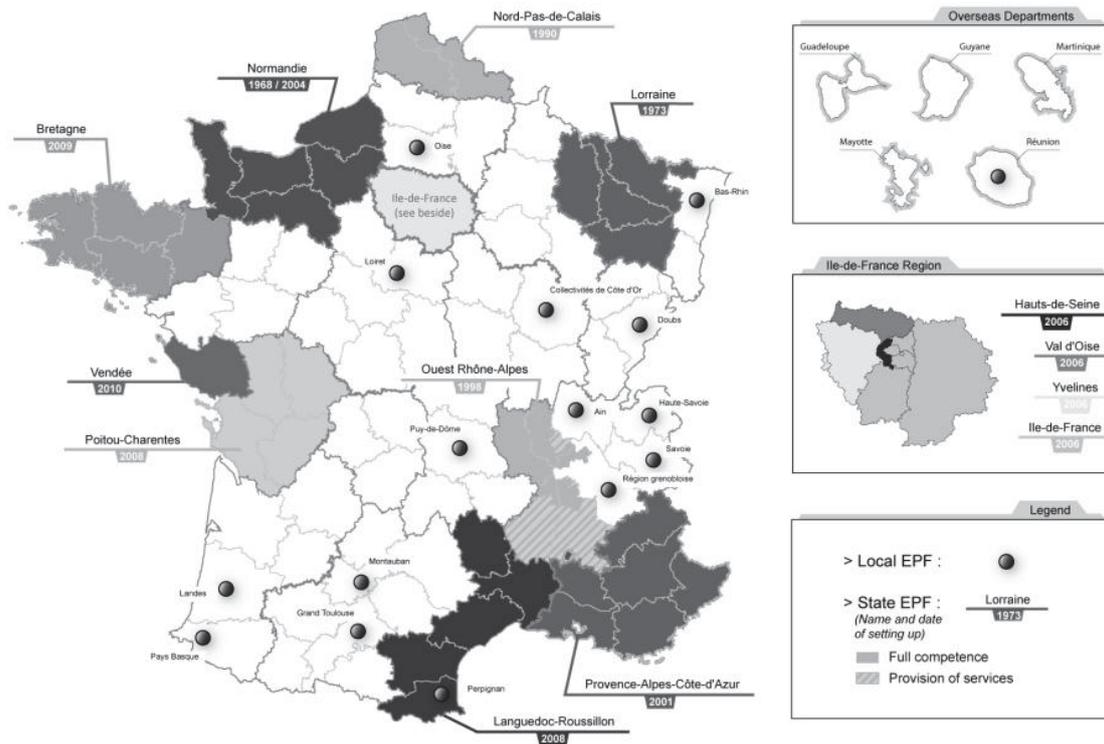
The research question of the paper is to understand what are the legal characteristics of States EPFs? And what kind of specific action do they additionally implement in practice? First, the EPFs will be described in a legal perspective. Then, in a second part, the paper will focus on the State EPFs' actions following two approaches: an operational one and a more strategically oriented one.

Acknowledgments

I wish to acknowledge *Foncier de Bretagne* (the State EPF of Brittany) and *Conseil Régional de Bretagne* (the regional council of Brittany) who have supported the work reported in this paper.

Legal status and purpose of a State EPF

The EPF is a quiet old (the first one was created in 1962), specific (they are not obligatory and do not exist everywhere in France) and successful tool (the oldest one still exists and have gain more competences as a new generation of EPFs emerges).



Map 1: The EPFs in France in 2010 [1]

By law, the responsibility to create a State EPF is not clearly defined and no particular condition is needed to motivate its creation. In practice it is often the decentralized State services that ask for it in order to face specific land issues or tackle significant land tensions. After a consultation of local authorities, a decree signed by the Prime Minister officials the creation. The decree is specific for each EPF and specifies its objectives, institutional structure and scope of intervention. The geographical perimeter of intervention for a State EPF is traditionally the regional level. But since 2000's, several EPF are now created also at a departmental level.

The purpose of EPFs is to acquire land in the name of municipalities [2], possibly restore or clean it, and then resell it to actors who will implement the development projects. In this case, the EPF's action is totally "free of costs" for the municipality. Historically, the purpose of the EPFs has evolved from economic purposes in the 70's to brownfield's redevelopment in the 80's-90's. Nowadays, they are also in charge of housing, especially social one. It must be précised that they are not allowed anymore to make any development or construction, but just acquire land under a 6 years program called *Programme Pluriannuel d'Intervention* (PPI). This way, the EPF's activity is theoretically excluded from the competition field [3].

The general principle for EPFs' funding is to reach a self-financed level by the proceeds from the resale of land. The estimated time needed to reach that stage is ten years. But to guarantee financial resources, a specific tax has been created: the *Taxe Spéciale d'Équipement* (TSE) that is collected in the EPF's perimeter (average out 8€/year/inhabitant). This dedicated tax demonstrates that the government wants to give a strategic role to EPFs in land policies [4]. The EPFs can also take out loans.

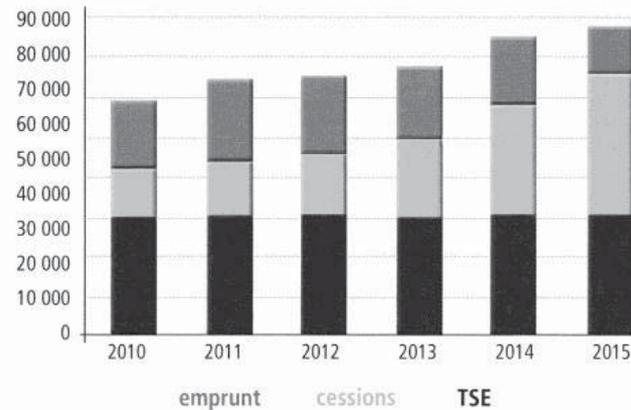


Table 1: Forecast means of the EPF PACA for years 2010 to 2015 in thousands of euros (reference: PPI 2010-2015, EPF PACA)

As an example, the EPF PACA is considering a stable TSE and anticipates an increase in the sale of land (*cessions* in the table above) that should permits a significant decrease of loans (*emprunt* above) by 2015. In a theoretical perspective, the TSE is supposed to decrease in time. In this sense, a high level of TSE should characterize a newly created EPF when a low TSE level would indicate that the EPF has reached the stage of self-financing (as in Normandy with a TSE less than 1.5 €/year/inhabitant).

State EPFs in practice: much more than just purchasing land

To achieve their mission, the State EPFs have implemented additional actions following two approaches: an operational one and a strategic one.

The operational approach is characterized by negotiation and explanation with the local authorities asking for EPF intervention. As an EPF cannot support all the projects, they use their own criteria which are described in the PPI, to set off (or not) the purchase of land. For example: density level, social housing percentage, environmental friendly housing, economic priorities, etc. So, before acquiring land, a negotiation is open with local authorities in order to respect these objectives. It takes time but can sometimes completely change the content of a project: from a mainly economical oriented one to a more housing one for example. The EPFs, which owns the land for a short time (normally 3 to 5 years), is interesting in the full success of each project and whereby support the local authorities throughout the whole process (even participate financially to the realization of feasibility and implementation studies). The result of this negotiation process is an operational convention signed for each “land holding” in order to determines its precise conditions (costs, duration, distribution of financial commitments, terms of resale, etc.).

The second approach, more strategically oriented, is based on two sides: partnership and cooperation. Indeed, beyond operational convention, some State EPFs develop partnership agreements at the intercommunal authorities’ level. The purpose of it is double. First they support local authorities in order to develop their planning documents looking for an optimal use of land. Secondly, they share information

(through observation and land watch) to improve their responsiveness and capture opportunities [5]. This partnership is particularly appreciated in the small municipalities facing the withdrawal of decentralized technical services of the State. The second side is what Buitelaar described as “networks” of cooperation [6]: inside the EPF itself, with the others public land operators, and with local actors. First, inside EPFs where the agreements and negotiations between the members of the board of directors (mainly local politicians) coordinate the way the financial resources will be used. Here, the cooperation is obligatory to share the EPFs’ financial resources and capacity of action between very distinct interests. Secondly, with the others public land operators (especially with the *Société d’aménagement foncière et d’économie rurale – SAFER*, dealing with agricultural land and with the *Conservatoire du littoral* dealing with coastal land). Here, cooperation is also imperative [7] to build an agreement especially in urban and suburban areas where their interests are confronting each other: preserving agricultural activities, protecting natural areas, or urbanizing land? The used solution is to sign a convention that identifies the areas of cooperation and give a detailed answer to the following question: who purchases which land and for what purpose? Thirdly, the cooperation and partnership with local actors that is more informal: sometimes during the PPI elaboration (workshop, audit, territorial diagnosis), sometimes on the long range to share information (that is still a big challenge in France). Occasionally, the cooperation with local actors may also help to avoid overlapping public intervention and foster innovative practices in land management.

Conclusion

On the one hand, this paper wanted to present EPFs as land management tools that serve national and local land policies in France. On the other hand, it has been shown that the cooperation and partnership are the essence of EPFs: their institutional structure, the way they are functioning and even the way they are created, make EPFs the result of a broad cooperation agreement between many actors. That’s why, it could be said that EPFs achieve what Verhage called an “optimal result” in land management [8].

References

- [1] **Dupont, J.** (2010), Rapport final de l’étude pour des « retours d’expérience sur des EPF aux enjeux comparables ». Foncier de Bretagne, Laboratoire ESO-Rennes, Université Rennes 2 Haute Bretagne, Rennes
- [2] **Goze, M.** (2008), Etablissement public Foncier, CERTU, an article on line : http://www.outils2amenagement.certu.fr/rubrique.php3?id_rubrique=53 (last access on June 2011)
- [3] **Kaszynski, M.** (2005), Les EPF après la loi sur la cohésion sociale. Etudes foncières n° 113, ADEF, Paris
- [4] **Marie, S.** (2010), Faut-il de nouvelles institutions dédiées pour l’action foncière ? l’EPF entre l’Etat et les collectivités territoriales. Journée d’études sur « L’actualité du droit foncier » organisée par le GRIDAUH et l’Université de Rennes 1, Rennes

- [5] **Bersani, C., Kaszynski, M., Vansteenkiste, P.** (2008), Les EPF. Etudes foncières n° 132, ADEF, Paris, pp. 19-30
- [6] **Buitelaar, E.** (2003), Neither market nor government, Comparing the performance of user rights regimes. *Town Planning Review*, 74, 3, p. 315-330
- [7] **Charmes, E.** (2009), L'explosion péri-urbaine. Etudes Foncières n° 138, ADEF, Paris, pp. 25-35
- [8] **Verhage, R.** (2002), Induced Cooperation in Housing Development: Comparing Housing Schemes in Four European Countries. *European Planning Studies*, Vol. 10, No. 3, p. 305-320

