

A short overview about FLOSS and French Public Administration Policies

Benjamin Jean

General Counsel

Head of Open Source Law Center of LINAGORA

LINAGORA

Logiciels et services Open Source

80 rue Roque de Fillol | 92800 PUTEAUX

Tel : 0810 251 251 | Fax : +33 1 46 96 63 64

www.linagora.com



Summary

- Legal approach: Law related to FLOSS policy (inactions)
- Pragmatic approach: Practices related to FLOSS policy (actions)

Legal approach

- Firstly, there is no French law to support (in ant manner) FLOSS adoption
- Law governing Call of tenders
 - General Government Procurement Terms (GGPT)
 - Intellectual Services GGPT (IS-GGPT) (nothing about FLOSS)
 - Free Software/Free licences will thus be mentioned
 - If specific terms about IP's rights: Special Government Procurement Terms (SGPT)
 - If specific Licence is needed: Special Technical Specifications (STS)
- Law governing Intellectual Property
 - The first French thesis about "free works" suggests to add a particular status titled "Reserved Domain Public": which would allow to dedicate works to the Public Domain with a special copyleft effect (Mélanie Clément-Fontaine, 2006)
 - Nothing specific yet



Official reports about FLOS Software or Licences

- Our president ask two reports to the Attali's commission
 - First report (2008): the France must “promote competition between proprietary and FLOS Software”
 - Second report (2010): Attali recently published an new report for the French Government
 - speaking about « the Government inaction » which « prevents competition to the detriment of free software »).
 - See <http://www.april.org/rapport-attali-linaction-du-gouvernement-empeche-la-concurrence-au-detriment-du-logiciel-libre>
- CSPLA's report (Conseil Supérieur de la Propriété Littéraire et Artistique)
 - Titled "Mise à disposition ouverte des oeuvres de l'esprit"
 - Only legal thinkings about FLOS Licences, without real answer



- Who distribute Public founds/Public Subsidies
 - Mainly by "Pole de competitivité"/competitiveness cluster
 - FLOSS become more and more important
 - For example
 - Capdigital
 - Systematic (with a special FLOSS unit)
 - Aerospace Valley
 - Some national agencies (OSEO, ANR, etc.)
- Where
 - Sometime dedicated to FLOSS projects, without positive discrimination (technical aspects prevail on juridical aspects)
 - with the exception of specific domains where we can find real will to try Open Source. For instance:
 - Aerospace field (Babylon)
 - Create an embedded real-time Linux
 - Create an ecosystem of open hardware & software for the aerospace industry
 - Health field (E-santé platform – Open Source project for Hospital)



Conclusions concerning law aspects

- There is no strategy (or, if any, it's certainly against FLOSS)
- BTW, there are still practices

Pragmatic approach

- Tools (CeCILL, white papers)
- Goals
- Call for tenders
- plus

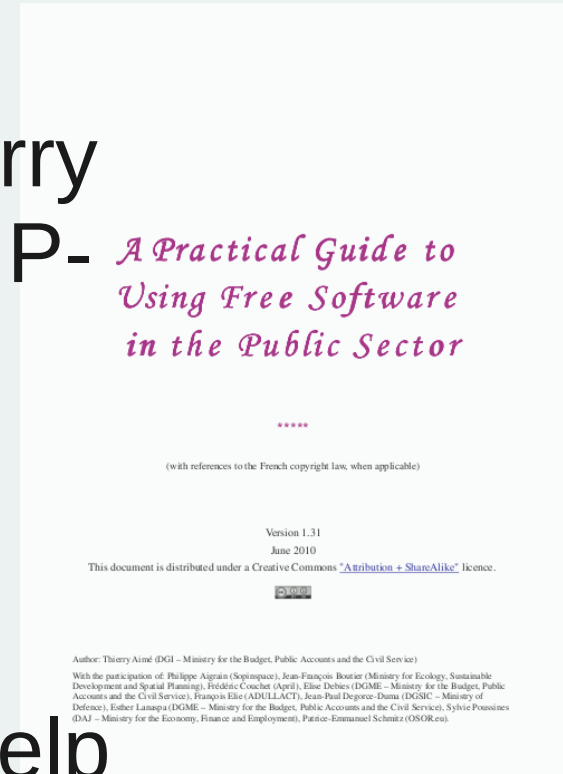
Tools dedicated to PA

- CEA CNRS INRIA Licences Libres (CeCILL)
 - Three licenses in harmony with French law
 - CeCILL-A: GPL-like licence
 - CeCILL-B: APL-like licence
 - CeCILL-C: GLGPL/MPL-like licence
 - written to respect
 - the Loi Toubon (impose administration to use French in its French contracts)
 - The consumer protection law (liability, warranties, etc.)
 - Compatibility
 - Within themselves
 - CeCILL-A software can be relicenced under GNU GPL
 - EUPL software can be relicenced under CeCILL-A
- EUPL licence is also used, but CeCILL (French Licence...) still prevail...



White papers

- A practical guide to using Free Software in the Public Sector (Thierry Aimé was at the DGME – a CONSIP-like)



- Open Source Guide: to help companies to create software upon Open Source components/to answer with FLOSS



Goals of PA choosing FLOSS

10

- pool their investments with other public entities
 - Ask for FLOSS
 - Distribute FLOSS (Addulact Gforge – merge the Gforge and Adminforge)
- mutualize their needs: a framework
“openmairie” was developed within ADDULACT:
 - Software like openCimetiere, openEcole, openElec, openRecouvrement, openCadastre, etc.

Calls for tenders: products

- General aspects
 - Contractors need a real knowledge about FLOSS (required in tenders)
 - _ Contractor generally have to
 - Be aware about FLOSS
 - To prove it
 - to produce certain extra documents, like compliance report (with a compatibility analysis)
 - _ One word about the AFPA / EDU 4 Case
 - EDU 4 use FLOSS without respecting their licences (GNU GPL).
 - AFPA claimed breach of contract.
 - EDU 4 tried to receive the whole price
 - Judgement said it was a real breach.
 - Conclusion:
 - _ Supplier/contractors have to be aware about FLOSS Licence
 - _ They must give a real information about their use (it increases the information obligation of the contract)
 - Example: Lilie project of the Region Île-de-France (12/24€ millions). Interesting case for 4 points:
 - Concerning the call for tenders
 - _ the Region had to rewrite its call for tenders (specificity the terms related to the Open Source licence)
 - _ Change their criterion to select offer
 - Concerning the ownership
 - _ The Region Wanted to share the IP's Right (about specific & initial supplier's IP rights)
 - _ Finally, offer to other regions to co-lead the Project
 - Concerning the licence
 - _ Asked for an open source licence
 - _ Finally, Lilie is under both GNU Affero GPL v3 & CeCILL-C v2 with particular terms
 - Why
 - _ We want to use a licence compatible with French Law without ambiguity
 - _ We want to use one famous licence for the whole software (compatible with OS components)
 - How
 - _ The whole software is published under GNU Affero GPL plus specific permissions
 - _ Only specific developments owned co-owned by the Region IdF CeCILL-C plus ASP extension.
 - Strong community aspects
 - _ The contractors have to create a community around the software (using GForge)
 - _ the PA are generally not adapted to use OS development model...



- Services: MINEFI (French Ministry of Economy and Finance)
 - MINEFI only tenders for support
 - Need an Open Source Software Assurance (OSSA)
 - Suppliers have to correct bugs on several software (more than 200)
 - to reverse their fixes to the community
 - Looks like the “AS IS” model presented by the CONSIP

- The Mairie de Paris (Paris Town Hall) will publish their datas under ODbL (copyleft licence dedicated to Database) soon
 - Open Data policy, will cumulatively use
 - the ODbL
 - The OdbL, to allow the reuse under same kind of DB (mainly OpenStreetMap)
 - A specific version of this OdbL
 - Specific licence based on the ODbL to define exactly rights and obligations
 - Give expectable terms (rights & obligations) for users
 - The decision is taken by the assembly of elected officials responsible for the use of public money
 - There is a legal control by the Prefect
 - Offer a commercial licence for companies who do not want to use these database under copyleft licence



Thank you

bjean@linagora.com

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