

# Chapter XXXIII

## Use of OSS by Local E-Administration: The French Situation

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### ABSTRACT

*This chapter deals with the integration of OSS in local and territorial e-administration and its relations with the state level in France. France includes both many local collectivities: (36,568 local collectivities) on four levels (local, departmental, regional, and central) and a centralized State. The policies defined in France and promoted by initiatives from the European Union are leading to the definition of a normative framework intended to promote interoperability between information systems, the use of free software and open standards, public-private partnerships, development of know-how and abilities. These policies are applicable to State agencies but are not required for local and regional collectives because of the constitutional principle of administrative freedom. The chapter shows how the integration of all administrative levels can be operated in an e-administration framework OSS based, often coexisting with proprietary software. The legal, political, and technical (III) frameworks of such integration are presented.*

### INTRODUCTION

The last 2005 July 5<sup>th</sup> European parliament rejects the attempts of the European Patent Office and its allies to impose software patentability on

Europe. This vote promoted the diffusion of OSS, especially in e-government's applications. In this background, we will focus on the effective use of OSS in French local e-administration. France includes many local and territorial collectivities:

(36,568 local collectivities) Integration of electronic administration between the different levels (local, regional, national, international) has not yet truly been implemented in France, even less so has it been theorized. However, a key point in the success of electronic administration resides at the most local level, the town hall, where citizens use it to undertake their administrative requests. The users, businesses or citizens, wish to have efficient service without needing to bother with the differences in responsibilities or approaches for each of these levels. Local, uncoordinated initiatives may result in costly incompatibilities or redundant work. Furthermore, a paradoxical situation could occur since the new technologies, necessary for deployment of services, are a factor in increase of “digital fracture” (even that of its spreading in company environment).

The policies defined in France and promoted by initiatives from the European Union (IDABC networks, Government Online International Network, International Council for Information Technology in Government Administration) are leading to the definition of a normative framework intended to promote interoperability between information systems, the use of free software and open standards, *public-private partnerships*, development of know-how and abilities. In France, the *ADAE* (Agence pour le Développement de l'Administration électronique—the agency for development of electronic administration), in the framework of the ADELE program has performed this task by creating a strategic plan (PSAE) and a master plan for electronic administration (SDAE). These policies are applicable to State agencies but are not required for local and regional collectives because of the constitutional principle of administrative freedom.

This chapter deals with the integration of OSS in *local and territorial e-administration* and its relations with the state level. OSS often coexists with proprietary software: how their integration is operated? What are the legal (I), political (II), and technical (III) frameworks of such an integration?

## **BACKGROUND**

The development of e-administrations within public organizations is a reality that has become progressively prevalent in the legal framework in France and, more generally, within the European Union (I). In this development, the problems of interoperability between the different levels of administration and the desire to be able to establish relations between the local, regional, national, and supranational levels, particularly between European nations, have raised the question of using open source software (Culnaert, 2004).<sup>1</sup> among administration specialists and decision-makers (I-2).

### **The Emergence of French and European Law on Local E-Administration**

The development of e-administration in general and *local e-administration* in particular, with the transformation of procedures<sup>2</sup> and the explosion of local e-services, is a reality in France<sup>3</sup> and in Europe<sup>4</sup>. On the legal level, the French constitutional and administrative organization allows the prime minister to regulate the development of public services on the Internet<sup>5</sup> for the State and its public administration institutions.

However, the constitutional principle of free administration of public organizations leaves public organizations greater freedom in organizing themselves directly within the limits of their obligatory declaration to the National Commission for Information Technology and Civil Liberties (CNIL) in order to ensure the protection of personal data<sup>6</sup> by applying the Law of January 6, 1978. The CNIL publishes a practical guide, explaining the requirements it imposes on public organizations on this subject.<sup>7</sup> The Law of January 6, 1978 was amended by a new Law dated August 6, 2004. That established a distinction between the two types of requirements prior to the declarations, based on the nature and goal of the data processing: data processing subject to the general declaration procedure and that subject to the exceptional

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