

Étienne Muller

Les instruments juridiques des partenariats public-privé

Préface de Gabriel Eckert

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Les Instruments Juridiques Des Partenariats Publicpriveacute

Etienne Muller



Les Instruments Juridiques Des Partenariats Public-privé:

Les instruments juridiques des partenariats public-privé Étienne Muller, 2009 Les partenariats public privé PPP consistent pour des personnes publiques confier des opérateurs économiques le financement total ou partiel la réalisation et l'entretien ou l'exploitation d'actifs affectés des activités publiques En droit français de telles opérations peuvent être réalisées au moyen d'instruments juridiques très divers entraînant l'application de différents régimes juridiques qui offrent différentes garanties face aux risques inhérents aux opérations de PPP La thèse démontre que ces instruments forment ensemble une classe particulière de contrats de l'Administration appelant l'émulation d'un régime juridique la fois commun et spécifique Analysant le désordre du droit positif la première partie de la thèse montre qu'il participe d'un phénomène plus général de diversification qui déstabilise la conception des contrats administratifs comme les instruments spécifiques et prévus des différents modes de gestion du service public Elle souligne ainsi le besoin d'une théorie générale des contrats spéciaux de l'Administration qui est la perspective dans laquelle s'inscrit la mise en ordre opérée par la deuxième partie En recourant notamment à l'analyse économique celle-ci vérifie d'abord la possibilité de forger une véritable notion de partenariat public privé avant de démontrer que l'émulation d'un régime juridique commun l'ensemble de ces opérations permettrait d'obtenir une meilleure cohérence globale du droit positif Plus généralement la démarche adoptée revient différencier les contrats selon le type d'opération socio-économique qui constitue leur objet

Les instruments juridiques des partenariats public-privé Etienne Muller, 2012-01-01 Dans un contexte de forte contrainte financière les collectivités publiques confient de plus en plus de missions globales des opérateurs économiques privés Or il ne faut pas oublier que ces opérations de partenariat public privé PPP peuvent être risquées ce qui rend crucial l'existence d'un régime juridique adapté En droit français de telles opérations peuvent être réalisées au moyen d'instruments juridiques très divers entraînant l'application de régimes hétérogènes qui offrent différentes garanties

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