

ENGLISH PROPOSITION DE SUJET DE THESE

Formulaire demande de financement : ARED - ISblue - ETABLISSEMENTS - ...

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Identification du projet

Acronyme du projet (8 caractères *maximum*) : SeaRights

Intitulé du projet *en langue française* : Reconnaître des droits propres aux éléments de l'écosystème marin : un enjeu juridique pertinent au regard des enjeux socio-économiques globaux ?

Intitulé du projet en langue anglaise : Rights for marine biodiversity : a legal issue towards global social and economic issues.

Présentation de l'établissement porteur (bénéficiaire de l'aide régionale)

Établissement porteur du projet :

Ecole Doctorale : EDSML SPI ou MATHSTIC pour les projets ISblue

Identification du responsable du projet (futur directeur de thèse)

Nom du laboratoire d'accueil : Aménagement des Usages des Ressources et des Espaces Marins et Littoraux (AMURE)

Code du laboratoire (U/UMR/USR/EA/JE/...) : 6308

Directeur¹ du Laboratoire : Olivier Thébaud

Nom de l'équipe de recherche : AXE C Socio-écosystèmes, territoires et stratégies d'aménagement

Nombre HDR dans le laboratoire : 17 Nombre de thèses en cours : 28 Nombre de post-docs en cours : 1

Nom et prénom du directeur* de thèse (HDR), porteur du projet :

- e-mail : adelie.pomade@univ-brest.fr

- Téléphone : 0695894266

- Publications récentes du directeur de thèse

A. Pomade, 2019, « Gradient de juridicité et recomposition du rôle des pouvoirs publics »,

¹ Ce formulaire est rédigé en style épïcène

In A quoi sert le droit de l'environnement ?, D. Misonne et F. Ost (Eds.), Bruylant.

A. Pomade (Dir.), 2018, **Hommes-Milieus. Vers un croisement des savoirs pour une méthodologie de l'interdisciplinarité**, Préface Stéphanie Thiébault et Adélie Pomade, Presses Universitaires de Rennes.

A. Pomade, « **Gradient de juridicité et atténuation de l'impact des pratiques de pêche sur les écosystèmes** », 2018, Revue Interdisciplinaire de l'environnement Vertigo, n° spécial. <https://journals.openedition.org/vertigo/20795>

A. Pomade, 2018, « **Le « terme d'ajustement des conduites » : outil de dialogue et de justice environnementale pour les acteurs du changement climatique** », *In* Quel droit pour les changements climatiques? Repenser le droit, M. Torre-Schaub, C. Cournil, S. Lavorel, M. Moliner-Dubost (dir), Mare Martin, p. 319.

A. Pomade, Carina Costa De Oliveira, Benoit Steimetz, 2016, « **Ch 1. La réparation de l'atteinte au milieu naturel** », *In* La RSE saisie par le droit : perspectives nationale et internationale, K. Martin-Chenut, R. De Quenaudon (dir.), Pedone

- Expériences d'encadrement et co-encadrement de doctorants (passées et en cours)

- Direction avec co-encadrement de la thèse de Madame Mariana Sciavetti (co-encadrement Esther Regnier MCF économie – UBO). Financement ISBLUE –ARED. Sujet : L'augmentation de la fréquentation touristique dans les aires marines protégées : des solutions juridiques aux implications socio-économiques.
- Co-direction avec co-encadrement de la thèse Monsieur Cédric Courson (co-direction avec Gilles Reverdin –CNRS LOCEAN et co-encadrement par Pascal Lazure – IFREMER LOPS) – Financement CRI/ Paris Université. Sujet : Océanographie Open source. Accélérer l'acquisition des connaissances environnementales marine en impliquant la société dans la recherche scientifique
- Membre du jury de soutenance de thèse de Monsieur Felipe Franz Wienke sur la thèse “Os programas de pagamento por serviços ambientais como instrumento para a transição agroecológica na agricultura familiar: desafios no cenário brasileiro”, Université Fédérale de Rio Grande do Sul do Porto Alegre (UFRGS), 9 mai 2016, Porto Alegre (Brésil).
- Co-supervision de la thèse de Madame Nina Tarhouny, « Le droit à la sécurité sanitaire appliqué à la santé au travail. Une étude basée sur les risques psychosociaux », à l'occasion des Doctoriales 2015 de l'IRIS, EHESS, organisées à Paris (France), 2014-2015.
- Encadrement de 5 doctorants sur la méthodologie de la recherche doctorale.
- (Encadrement de 8 étudiants de Master 2 dans le cadre de la réalisation de leur mémoire.)

Co-directeur de thèse (HDR ou équivalent étranger) éventuel :

Laboratoire de recherche : (nom + code U/UMR/USR/EA/JE/...)

- e-mail :

- Téléphone :

- Expériences d'encadrement et co-encadrement de doctorants (passées et en cours)

(nom des doctorants dirigés et en cours et antérieurement, sur les 6 années passées : sujet, financement, date de soutenance, et situation professionnelle actuelle si connue)

Et/ou co-encadrant e scientifique :

Laboratoire de recherche co-encadrant (nom + code U/UMR/USR/EA/JE/...)

- e-mail :

- Téléphone :

- Expériences d'encadrement et co-encadrement de doctorants (passées et en cours)

(nom des doctorants dirigés et en cours et antérieurement, sur les 6 années passées : sujet, financement, date de soutenance, et situation professionnelle actuelle si connue)

Le cas échéant, autres collaborations (co-encadrant et laboratoire concerné) :

Financement du projet de thèse

En cas de financement à 50 %, le cofinancement est-il déjà identifié (*oui/non*) : OUI

Si oui, préciser la nature du cofinancement (*ANR, partenaire privé, Ademe, etc.*) : Partenaire associatif Surf Rider Foundation

Si le cofinancement n'est pas encore confirmé, date prévue de réponse du cofinancier :

En cas de non-obtention du cofinancement demandé, une autre source de cofinancement est-elle identifiée (*oui/non*) : NON

Si oui, laquelle :

Sollicitez-vous un co-financement Is-Blue (y compris ARED Is-Blue) (*oui/non*) ? OUI

Important : Veillez à bien compléter les différents co financements sollicités sur le serveur Thèses en Bretagne Loire lors du dépôt de votre dossier.

Projet de thèse en cotutelle internationale

~~S'agit-il d'un projet de thèse en cotutelle internationale dans le cadre d'une convention (*oui/non*) :~~

~~Si oui, préciser l'établissement pressenti (*et le pays de rattachement*) :~~

~~Ce projet de thèse fera-t-il l'objet d'un cofinancement international (*oui/non*) :~~

~~(Rémunération du doctorant par l'établissement implanté sur le territoire régional (18 mois sur 36 mois), et l'établissement étranger, qui s'engage également à rémunérer le doctorant dans le cadre de son séjour à l'étranger, soit durant 18 mois -a minima-)~~

~~En cas de cofinancement international, préciser si vous en avez connaissance l'organisation du calendrier des périodes de séjour :~~

~~Préciser quel est le stade du projet international (*joindre une lettre d'engagement du partenaire*)~~

Présentation du projet (en langue française ou anglaise, 2 à 3 pages)

Résumé du projet (4000 caractères maxi espaces compris) :

Nature's legal personality poses a set of ethical, epistemological and even cultural questions to Law. For a long time, nature has been categorized in law under terms of "common heritage" or "common goods", or even approached from the angle of property and common things (res communis). Assigning rights, but above all duties, to nature does not seem legally possible in

our Western systems. In India and New Zealand, on the other hand, legal personality has been recognized for rivers.

At the same time, initiatives are multiplying in favor of the recognition of the rights of Nature in the field of public policies, and this at several scales. We can mention as an indication the pleas of European deputies Catherine Chabaud, also a former navigator, and Marie Toussaint in this sense.

The reflection on legal personality is extended to the natural elements of the marine area. Can we envisage, in the short or medium term, that marine biodiversity, or even the ecosystems to which it belongs, could be endowed with their own rights or with legal personality? In view of cultural, social, economic, historical or even religious factors, is it possible to set up rights specific to the marine ecosystem? Does this notion of legal personality come up against the socio-economic issues of current protection and exploitation of marine resources? If the objective is to conserve and preserve them, would this solution be the most adequate or should other possible and preferable paths be followed?

The research carried out in the thesis will consist in drawing up an inventory of the legal status of nature and its elements, from a comparative law perspective, studying the already existing protection instruments and their effectiveness, to explore possible and effective ways in order to guarantee the natural marine elements increased protection in line with the challenges of our society. The maritime specificity of this study on legal personality may thus come up against certain concepts of international law such as freedom of navigation.

The proposed thesis will provide legal support to stakeholders in the negotiations of standards related to ocean governance by directing their reflections on the opportunity to recognize rights specific to the marine ecosystem. She will also provide expertise on the adequacy of litigation for ecocide with damage to the marine environment.

Présentation détaillée du projet :

1 - Hypothèse et questions posées, état de l'art, identification des points de blocages scientifiques (4000 caractères maxi espaces compris)

Nature is increasingly taking its place as its own entity without its legal status being clarified, and public policies are looking for new instruments to ensure better protection. The question of its status therefore arises sharply, without legal doctrine succeeding for the moment in establishing a consensus. The thesis subject proposes to include this reflection in the issue of the marine environment, in order to explore a field that has not yet been fully invested in this question but presents as such undeniable challenges. The Erika judgment, rendered in the context of damage caused to marine biodiversity by the effect of an unprecedented oil spill due to the sinking of a ship, for example opened the case-law and legal route to the recognition of the elements of the marine ecosystem as “something” that can be legally grasped.

In law, only physical or legal entities (for companies) with legal personality have their own rights to which duties are attached. The marine ecosystem, in this categorical approach, meets several of these qualifications. It is a *res nullius* for fishery resources, which allows the appropriation of fish for economic purposes at the expense of saving the resource. It is a *res communis* for the body of water, which no owner can vouch for when it is degraded. The question therefore arises (i) of the need to (re) define the legal status of all or part of the elements

of the marine space according to the needs of current public policies, (ii) of the exploration of possible alternatives, possible and / or desirable protection.

This will require answering a set of questions:

6) In what context does the reflection on the legal personality of the natural elements of the marine space take place?

7) Why in some legal systems is the legal personality of the elements of Nature recognized and in others not? What are the social, cultural, religious, historical factors that explain the attribution of legal personality to natural elements?

8) The recognition of the legal personality of the natural elements of the marine space, and the attribution of own rights, is it appropriate in view of the environmental, economic and social issues?

9) Should legal personality for the natural elements of the marine space always be linked to the attribution of specific rights? Do you need a legal personality from the Ocean to act on its behalf?

10) Is the concept of legal personality finally adapted to the marine environment? Is granting legal personality to the sea the best way to protect it? Are there more appropriate legal alternatives than granting legal personality?

2 - Approche méthodologique et techniques envisagées : (4000 caractères maxi espaces compris)

In order to carry out this research, it will first be necessary to carry out a state of the art of the legal consideration and the status of natural elements, first and foremost those of the marine space. The doctoral student will explore the mechanisms, concepts, concepts and existing legal instruments that take into account or are likely to take into account the marine environment and its elements in order to ensure its conservation and protection. These concepts are diverse: common heritage, common good, legal personality, own rights, pure ecological damage, marine protected areas.

In parallel with this legal research, the doctoral student will conduct a qualitative analysis of the different perceptions and conceptions of the marine space by human beings. The notions of humanization, sacralization or even personification can thus be approached and studied. This will make it possible to draw up a reading grid of States or other territorial authorities or communities, but also international bodies that grant a right or subjective rights to the Ocean or to a part of the marine ecosystem. The research will make it possible to study in the systems and societies identified the relationship of humans to their marine environment, through institutional analysis and field surveys, particularly in local communities, and observations.

This step will have made it possible to identify parallels between social, institutional or historical, cultural or even religious heritage organization and recognition of subjective rights to the ocean in different regions of the globe. It will then allow a critical study to be carried out on the effectiveness of the recognition of rights specific to the ocean with regard to the protection of the marine ecosystem. The methodology used will be inspired in part by the work of American economist Elinor Ostrom, who feeds his models of analysis with empirical research in order to build his models in comparison. This research may therefore involve international mobility to carry out the social sciences component of the proposed thesis.

While the proposed research is anchored in solid legal work, it involves the mobilization of knowledge in sociology, anthropology and economics. It will allow (i) to reposition the societal debate on the attribution of the legal personality of nature in the current legal system, (ii) to enrich and clarify it thanks to the legal doctrinal references and to the sociological analyzes that I will lead, and this while providing legal solutions.

The comparison of governance methods on a more local scale will not only make it possible to be a force for proposal, to a fair extent, towards a more global reflection on international public sea policies, but also to respond to the last issue of the questioning of research by going beyond the debate on the simple recognition of rights specific to the marine environment.

3 - Positionnement et environnement scientifique dans le contexte régional, national et international :

The thesis project is part of a global reflection on current public sea policies. It will first of all interest at the regional level the reflection launched by Ifremer in the ecosystem approach of the Starfish 2030 mission.

On a European scale, it echoes in particular the Ocean as Common manifesto, led by former sailor and MEP Catherine Chabaud, for the recognition of the Ocean as a common good of humanity.

At the international level, the thesis will provide answers to certain reflections on ocean governance and the balance between conservation and exploitation for economic purposes of marine resources, which appear in the Call of the High Seas (2013), the integration of the Ocean into the preamble of the Paris Agreement (2015), and the creation of SDG 14 on aquatic life (2015). The negotiations for the definition of an international instrument for the governance of biodiversity in the high seas (BBNJ) carried out within the United Nations, the debates on the recognition of pure ecological damage within the IOPC Fund, or the perspectives of sanctuarization of the Arctic, for example, illustrate the concepts of the common good and the common heritage of humanity. This reinforces the idea that a legal personality could be a tool for these public policy purposes, which will thus be enriched by research.

Finally, the research project will provide legal support for reflection on litigation related to ecocide and its adequacy with the damage to the marine environment, at the level of French, European and international law.

4 - Contexte scientifique et partenarial : éléments généraux (ERC, CPER, FEDER, Breizhcop ...) (4000 caractères maxi espaces compris)

The thesis subject is in line with the global interests recognized in the marine space, namely effective means to preserve ecosystems and marine biodiversity, through law. Also, it meets the objectives of the CPER 2017-2020, in particular objective n ° 5 concerning more particularly the management of natural spaces. Through its practical approach dedicated to requests for the taking into account and reconsideration of nature by certain human communities or currents carried by society, the doctoral subject is a continuation of the Breiz Cop. Indeed, it will potentially be a space for explaining social commitments and perceptions, but also a place for understanding individual and collective conceptions of Nature.

Vous sollicitez un financement ISblue, ou une ARED ISblue :

Précisez le lien du sujet avec les thèmes ISblue

Thème ISblue	Thème	Thème secondaire	Autre
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	principal	(si nécessaire)	(si nécessaire)
la régulation du climat par l'océan			
les interactions entre la Terre et l'océan			
la durabilité des systèmes côtiers			
l'océan vivant et les services écosystémiques	X		
les systèmes d'observation à long terme			

Expliquez/précisez en quelques lignes dans quelle mesure votre demande correspond à l'un ou plusieurs des critères ISblue ci-dessous :

1- Originalité, impact potentiel du projet (4 lignes maxi)

The project is part of a field of research putting tension on debates and lack of legal consensus on the one hand, and societal demands on the other. The research potential consists of shedding light on ideological and technical legal blockages and proposing effective alternative solutions to guarantee the protection of marine biodiversity without breaking with the imperatives of law.

2- Positionnement international du sujet, cotutelle ou co-encadrement international (4 lignes maxi)

The subject is positioned on the merits in an international context, because it supposes for its realization to compare Western legal thought with foreign legal systems and whose culture is sometimes hybridized with ancestral ideological conceptions. This therefore means that the research involves the exploration of a broad spectrum of foreign legal approaches.

3- Effet intégrateur entre unités de recherche et / ou interdisciplinarités (4 lignes maxi)

The subject is anchored in a legal questioning, but it cannot be realized without a sociological, economic and anthropological approach.

4- Potentiel d'insertion à un haut niveau dans la communauté académique ou non académique du docteur

(4 lignes maxi)

The theoretical dimension of the subject constitutes a strong asset to contribute to the insertion of the doctor in the academic community. In fact, it presupposes the in-depth legal and technical knowledge required for any teacher-researcher or researcher. However, by its anchoring in societal reality, the doctoral student requires a strong relationship with structures (associative, institutional...) open to recruitments.

Le candidat

Profil souhaité du candidat (spécialité/discipline principale, compétences scientifiques et techniques requises) :

The candidate should have a degree in law, with competence in environmental law and sea law.

Experience in associative or institutional structures related to the field and theme of the subject will be an asset.
Fluency in the English language is required

ATTENTION :

Tout dossier non déposé sur le serveur dans les délais indiqués, ne pourra être pris en compte notamment par les instances ISblue, conseil de l'EDSML.