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Fiscal Austerity and Innovation in Local Governance in Europe

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Chapter 4 Public Services in European Countries: Between Public/Municipal and Private Sector Provision – and Reverse?

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Introduction¹

Public services generally encompass water supply, sewage, waste management, public transport and energy provision. In Anglo-Saxon terminology they are usually called public utilities, while they are labelled *services publics industriels* in French, *servizi pubblici* or *servizi di pubblica utilità* in Italian and *Daseinsvorsorge* (services for the public) in German. In European Union (EU) policy the term *services of general economic interest* has been introduced (see Wollmann/Marcou, 2010b).

For analysing and discussing the delivery of public services two conceptual axes will be employed in this chapter: its *organizational* form and its *operational* logic:

a) The organizational form ranges between public (state/municipal) sector and private sector.

If carried out by the public (state/municipal) sector the public service may be rendered either *directly* by state/municipal administration and its personnel (*in house, en régie*) or *indirectly* through units which, while remaining in state/municipal ownership, stand organizationally (and often also financially) separate from the core administration. In the latter variant one also speaks of *formally* or *organizationally* privatized (or *corporatised*) organization (see Grossi et al., 2010; Kuhlmann/Fedele, 2010: 40). Of this, in Germany the so called *Stadtwerke* (city/municipal works) and in Italy the so called *municipalizzate* are exemplary.

As they often carry out more than one function and service they take the organizational form of multi-utilities.

Functional privatization means the transfer (delegation, outsourcing) of the delivery of public services to an outside actor who, as a rule, is a private sector provider, typically by way of a time-limited contract (concession).

¹ For other references see also Wollmann (2011) and Wollmann/Marcou (2010c).

Material (or *asset*) privatization signifies that the ownership of the facility concerned changes, as rule by way of sale, from public (state/municipal) to private ownership, be it completely or only partially. In the latter variant *mixed* (or *hybrid*) companies or, in recently prevalent terminology, *public private partnerships* (PPP) are formed in which public and private financial and other resources are combined. In fact, in some countries such mixed companies have a long tradition in the delivery of public services.

Against this background the term *remunicipalization* (or *recommunalization*) refers to the reverse process when functionally privatized (outsourced) functions and services are turned back into public/municipal operation or materially (asset) privatized facilities are purchased back and return to public/municipal ownership, be it entirely or partially (see Röber, 2009; Wollmann/Marcou, 2010c; Wollmann, 2011; Kuhlmann/Wollmann, 2014).

b) Regarding the *operational principle or logic* which guides the process, performance and output of service delivery a significant distinction can be made between an *economic* logic or rationale and a *political* one.

The *economic* logic and rationale is (ideally typically) directed primarily at economic efficiency in terms of maximising economic benefits/profit and of minimising costs (by possibly externalising social, ecological, and so on, costs). The economic logic is typical of the private sector actor whose prime leitmotif is profit-seeking and private-regarding and whose spatial frame of reference is the (as it were, borderless) capitalist market.

By contrast, the *political* logic pertains (ideal-typically) to a wide range of goals and effects among which political, social, ecological, and so on, objectives (welfare effects, Mühlenkamp, 2012: 22; 2013: 3) are prone, in the case of goal conflicts, to be given priority over (strictly) economic ones. Such *political* logic and rationale is characteristically adopted by politically elected and accountable decision-makers in national parliaments or local councils who ideally are public-regarding and geared to the common good and best interest of, say, the local community.

In its comparative intent the chapter pursues a threefold dimension:

- a) In a *cross-country* perspective it addresses (four) European countries: the UK: England, Germany, France and Italy.
- b) In a *cross-policy* view it focuses on energy and water provision as two network (grid)-based public utilities.
- c) In a *historical (longitudinal, over time)* perspective different phases are discerned of which it is assumed that each of them has specifically shaped the organizational form and operational logic of service delivery in order. For the purpose of this chapter five such stages are (hypothetically) identified, that is, first, the emergence of local government (based in the nineteenth century), second, the public sector-centred delivery of the advanced welfare state (until the 1970s), third, the neo-liberal policy/New

Public Management (NPM) driven promotion of private sector delivery (since the late 1970s), fourth, a post-neo-liberal/post-NPM comeback of public/municipal delivery (since the late 1990s) and fifth, a new privatization push in the wake of recent budgetary (sovereign debt) crisis (for the concept of different historical phases see Millward, 2005; Röber, 2009; Wollmann/Marcou, 2010b, 2010c; Clifton et al., 2011).

While the development of the organizational form and operational logic of service delivery will be regarded, methodologically speaking, as dependent variables, the explanatory scheme will be significantly inspired by the (neo-)institutionalist debate (see Peters, 1995; Wollmann/Marcou, 2010b).

In line with the historical (over time) perspective, the *historical* variant of institutionalism will be writ large which highlights the structural impact that institutional, political as well as cultural traditions, through ensuing path-dependencies (see Pierson, 2000), may have on the further course of institution building and institutional choice.

By contrast the *actor-centred* variant (see Scharpf, 1997) emphasises the voluntarist influence which the decisions and interests, political will and skill of the relevant political and economic actors may exercise on the future institutional course. Under certain conditions (particularly in the case of regime shifts or government shifts), this may amount to a deviation and rupture from a path-dependently staked-out trajectory.

Moreover, *discursive* institutionalism (see V. Schmidt, 2008) accentuates the (political, ideological, and so on) discourses whose constitutive beliefs and concepts set the stage for shaping and legitimising decision-making in the national as well as international policy arenas.

The guiding question of the following comparative account and analysis will be whether (and why) the development of the organizational and the operational logic of public service delivery have shown convergence or divergence. Due to the limited space of this chapter the arguments are bound to remain quite sketchy, if not fragmentary, where the complex subject matter would call for more substantiated treatment.

First Stage: Nineteenth Century – the Emergence of Local Government Based Public Service Provision

In the course of the nineteenth century, during a period of rampant industrialisation and urbanisation in which Britain was a European front-runner and Germany followed suit in Continental Europe, the provision of public utilities (water, sewage, waste, public transport, energy) in its initial basic form was deemed mainly a responsibility of the local authorities. After the early engagement of private sector entrepreneurs, which largely ended in bankruptcy, local authorities saw themselves compelled to take over their facilities. For the provision of public

services the local authorities often created municipal companies (called *Stadtwerke* in Germany and *municipalizzate* in Italy), which often rendered more than one service, operated as multi-utilities. A sort of (embryonic) local welfare state took shape which, while derided by contemporary conservatives and Manchester liberals as municipal socialism (see Wollmann, 2011), responded to a broad range of socio-economic needs and interests of the respective local community and its stakeholders. Being embedded in local level decision-making the operational logic of this early regime of local government-based service delivery may be interpreted as reflecting political rationality.

Second Stage: Public Service Provision Under the Advancing and Climaxing of the Welfare State

With the expansion of the national welfare state which unfolded in the early twentieth century and climaxed during the 1960s and early 1970s, the provision of public utilities was regarded as a key responsibility of the public sector. This development was rooted in the (as it were social democratic) belief that the conduct of the public services in the best interest of the citizens was ensured by having them rendered by the public sector, be it state or municipal, and its public personnel directly. Hence, in its *organizational form* the provision of public services was marked by a quasi-monopoly of the public sector, while, in its *operational logic*, it was shaped by a political rationality which, being embedded in political decision-making and political control, would be, geared, first of all, to the general good and in the best public interest.

In the following the development will be sketched in singling out the energy and water sectors as cases in point.

After 1945, under the incoming Labour Government, the UK epitomized the public sector-centred (post-war) welfare state. In 1946 the energy sector which historically was largely in the hands of the local authorities was nationalized by turning the existing local companies over to public authorities under the control of the central government (see McEldowney, 2007). The local authorities were left with some all but minor functions (district heating). In 1973, the water sector which was historically operated by a thousand local water undertakings was nationalized as well by establishing ten public (central government-controlled) Regional Water Authorities (see McEldowney/McEldowney, 2010).

Similarly in post-war France in April 1947 the energy sector was nationalized by incorporating the existing private energy companies into two state-owned (monopolist) energy corporations, *Electricité de France* (EdF) and *Gaz de France* (GdF). Although the municipalities retained the ownership of the local grids, only 5 per cent of them chose to operate the grids themselves (*en régie*), while, in line with the century-old practice of the country's municipalities of functionally privatizing or contracting out (*gestion déléguée*) service provision, most of them outsourced energy provision by way of long-term *concession* contracts to EdF and GdF. Only a minority of some 230 small municipal energy corporations (*entreprises*

locales de distribution d'électricité, ELD) were exempted from nationalisation and continued their local operations, particularly in hydro-powered generation of electricity (see Allemand, 2007: 31). Thus, the state-owned companies came to dominate the local markets and were poised to become national, if not international champions in the energy sector.

In the water sector, too, following the traditional practice of *gestion déléguée*, most municipalities delegated (outsourced) the water services to private water companies (see Bordonneau et al., 2010: 134)². As a result, France's water sector is now dominated by the big three water companies (Veolia, Suez and SAUR) that serve some 70 per cent of the households³ and have become national champions and even global players in the water sector.

In Italy, too, in 1962 the energy sector was largely nationalized by integrating most of the existing (some 1,270) regional and local energy companies in state-owned company ENEL (*Ente nazionale per l'energia elettrica*). Only a small number of municipal corporations (*municipalizzate*) were exempted from nationalization and have continued in small-scale generation and distribution of electricity (see Prontera and Citroni, 2007).

Italy's water sector was traditionally serviced by small municipal water companies whose great number reflected the high degree of territorial fragmentation of the country's municipalities.

In post-war (West) Germany, in stark contrast with the UK, France and Italy, the energy sector did not undergo any nationalization since the country's post-war reconstruction was directed by a conservative-bourgeois coalition government which rejected nationalization as a socialist measure (with the – Socialist – German Democratic Republic, at the other side of the Iron Curtain, perceived as an political and ideological deterrent) and, instead, embarked upon an ambitious privatization programme, including the state-owned Volkswagen factory.

Against this background, (the West) Germany's post-war energy sector showed an asymmetrical duality of energy providers. On the one hand, it was dominated by a handful of major (regional) energy companies which, operating as private law listed stock companies, were owned by a spectrum of private investors and, to a minor degree,⁴ also by municipalities. On the other hand, municipalities

2 With the exception, for instance, of the Cities of Paris and Grenoble where the water services continued to be provided *en régie* or through municipal companies.

3 Veolia Environnement (known officially as *Compagnie Générale des Eaux* in France) provided drinking water to 24.6 million people and waste-water services to 16.7 million people in partnership with more than 8,000 municipalities including Lyon.

Suez (known as *Compagnie Lyonnaise des Eaux* in France) provided 12 million people with water services in 5,000 municipalities and 9 million with waste-water services in 2,600 municipalities.

SAUR provided water and sanitation services to 5.5 million people in more than 6,700 municipalities and municipal associations, mainly in rural and peri-urban areas.

4 Such as RWE.

held a significant position in the energy sector, particularly in the transmission, distribution and (to minor degree also) generation of electricity, mainly in the traditional organizational form of the multi-utility *Stadtwerke* (city/municipal work). Being legally restricted to their respective local territory the *Stadtwerke* has often tended to establish protected local markets, if not local monopolies (see Ude, 2006). The operational logic of the municipalities and of their *Stadtwerke* in their engagement in the local energy provision can be interpreted as mirroring a political rationality as, embedded in local political decision-making and control, their activities are prone to respond to specific local (social, ecological and so on) needs and interests of the local community, possibly at the detriment of (strictly) economic criteria, as mandated by economic rationality. A case in point is using profits made in energy provision to cross-subsidize deficit-ridden local services, such as public transport. Another important example of non-economic.

Germany's water sector has as well been traditionally characterized by a myriad of small municipal water companies in the organizational form of multi-utility city works (*Stadtwerke*).

Third Stage: The Neo-liberal Shift – From Public Sector-based to Private Sector-based Service Provision

Since the 1980s, the public sector-centred organizational form and the *political* rather than *economic* operational logic of public service provision have encountered mounting criticism.

For one, the public sector-centred service organizational form of public service provision in the advanced (social democratic) welfare state has been attacked by the advocates of neo-liberal beliefs and New Public Management maxims for being basically and structurally inefficient. Remedy for this alleged public sector failure was seen in dismantling the (quasi-monopolist) public sector by way of privatizing the provision of services – be it by functional privatization (that is outsourcing) to outside (first of all private sector) providers, or by material (asset) privatization, that is, transfer to private ownership (see Grossi et al., 2010).

Another thrust of criticism was directed at the prevalence of an operational logic which, in a political rationality, tends to give priority to social, ecological, and so on, goals, while neglecting or putting last economic efficiency, that is, economic rationality. Redress was seen in the marketization (market liberalization, compulsory/obligatory tendering) of service provision.

The neo-liberal shift received its initial powerful political and discursive thrust in the UK after 1979 under Margaret Thatcher's conservative regime whence it spread first to other Anglophone and subsequently to Continental European countries. Since the mid-1980s it has been further propelled by the European Union's market liberalization drive to create a single European market by 1992 for goods, services and capital. Market liberalization has been targeted, not least at the provision of public utilities which in EU terminology has been labelled

services of general economic interest (see Wollmann and Marcou, 2010b). As, in the past, such services were typically rendered in *territorially* defined and often somewhat protected national and local markets coming close to a virtual national or local monopolies, they were bound to become a prime target of EU's market liberalisation drive which aims at breaking up such territorially and locally secluded and protected markets and at paving the ground for single market-wide, in a way de-territorialized, competition.

In the following the energy and water sectors will again be singled out as cases in point in order to identify the impacts of this neo-liberal policy shift.

Energy Sector

In the UK, in anticipating (and, in fact, serving as model for) the EU's market liberalization intervention in the energy sector, the Conservative government under Margaret Thatcher proceeded, through the Electricity Act of 1989, to privatize the country's electricity sector which had been nationalized in 1949. At first 14 regional private sector companies were established. Later on their number was reduced to five as a result of mergers. International energy companies, such as France's EdF and Germany's RWE and E.on, entered the British energy market by becoming (minority) shareholders of the British private companies (see Drews, 2008: 51). Along with the privatization legislation the government revolutionized energy service provision by creating a national grid company to operate the transmission grids and by establishing a governmental regulatory agency to serve in a watchdog function.

At the local level, on an all but marginal scale, local government-related companies continued to operate heat- and power-combining facilities mostly in connection with district heating. They were restricted to cater only to local consumption needs but could sell and feed electricity into the national grid.

The EU has started, since the early 1990s, to intervene in the electricity sector by issuing *directives* which, in the EU's norm setting hierarchy, oblige the EU member states to translate (transpose) them into binding national legislation. After the (first) Directive 92/92 of 19 December 1996 largely failed to deregulate the electricity market, the EU followed up with the so-called Acceleration Directive (2003/54 of June 26th 2003) which introduced two particular instruments. For one, in distinguishing between generation, transmission and distribution/supply as three key functions of energy provision, the EU Directive aimed at organizationally unbundling these three functions. The basic idea was that, in order to ensure price competition in the interest of the consumer, non-discriminatory access to the transmission grid/network should be guaranteed to all providers. Second, the directive obliged each member state to put in place a national regulatory agency in a watchdog function.

In France, during the 1990s the national government at first showed little inclination to implement the EU's market liberalisation drive, probably because such implementation would have impaired the market-dominating quasi-monopolist position of state-owned EdF. In fact, in pursuing a distinctly protectionist

industrial policy the government promoted EdF as a national champion to expand into international markets (see Beckmann, 2008: 246). Furthermore, nuclear power generated electricity makes up to 75 per cent of France's entire electricity production which resulted in comparatively low energy prices so that there was little need in the public discussion to call for privatization as an incentive of price competition. Consequently, there has been little incentive in France to evoke a public discussion on the need of having more price competition.

Finally in 2004, in responding to the EU Acceleration Directive of 2003, France moved to *formally* privatise EdF by transforming it into a private law stock company to be listed on the stock market. However, private (institutional or individual) ownership has been legally limited to 30 per cent of shares of EdF. Consequently, as of 2010 up to 84.8 per cent of shares of EdF are still held by the French state. However, in reaction to the unbundling, EdF has meanwhile set up an organizationally independent grid company (see Marcou, 2007, 21 f.).

In the shadow of the quasi-monopolist position of the still largely state-owned EdF the marginal role the some 230 municipal energy companies that were exempted from nationalisation in 1946 has not been noticeably boosted; they continue to provide just 5 per cent of the country's entire energy supply.

In Italy, in reaction to the EU Directive 96/92 the Italian government at first, in 1999, *formally* privatized the (quasi-monopolist) state-owned energy company ENEL by transforming it into a private law stock market-listed company. Subsequently ENEL was obliged to sell significant shares of its stocks to private (institutional and individual) investors, including Italian as well as foreign competitors (such as France's EdF and Germany's RWE and E.on). As a result, state ownership in ENEL has been reduced to some 30 per cent. Furthermore, in 1999, the EU's debundling imperative was put into practice by legally obliging ENEL to set up independent grid companies and to sell some of them to the municipal companies (*municipalizzate*) of major cities. Moreover in 1997 an independent watchdog regulatory agency (*autorità per l'energia elettrica ed il gas*) was created.

At the same time, the municipal companies (*municipalizzate*) that had been exempted from nationalisation in 1962 continued to play a noticeable role particularly in the generation of renewable energy (see Prontera and Citroni, 2007).

In this context it should be added that in a reaction to Chernobyl nuclear catastrophe of 26 April 1986, the construction of nuclear power plants in Italy was overwhelmingly rejected by a country-wide referendum held on 8 November 1987.⁵

In Germany, as a reaction to the EU Directive 96/92/EC, the Federal Energy Act of 1998 was adopted which aimed at liberalising Germany's energy market. In the first phase, the legislation had the somewhat paradoxical effect of triggering a downright wave of mergers (Deckwirth, 2008: 82) which resulted in the emergence of E.on, RWE, EnBW and (Sweden's State-owned) Vattenfall as the big four

⁵ The ban on nuclear power stations was confirmed by the national referendum held in 1980.

dominant players on Germany's energy market. At the same time, faced with the competitive pressure by the big four and with a mounting budgetary plight, many municipalities saw themselves compelled to sell local grids and shares of their *Stadtwerke* to the big four. In a development which, by some, was seen as foreboding the demise of the *Stadtwerke* (*Stadtwerkesterben*) (see Wollmann, 2002; Wollmann and Baldersheim et al., 2010).

Water Sector

Different from the energy sector, with regard to the water sector the EU does not have the competence to intervene by way of sector-specific deregulation. However, it has influenced the provision of drinking water and waste-water treatment by directives concerning the respective water quality.⁶ Insofar as in some countries national legislation has regulated water provision, they fell in line with the general neo-liberal policy trend without explicit EU obligation.

In the UK, in further pursuing its neo-liberal policy drive the Conservative government, in 1989, effected the (*material/asset*) *privatization* of the country's water sector by selling the (ten) public regional water authorities to private sector water companies. At the same time a regulatory agency (OFWAT) was created following the model of the infrastructure regulatory agency set up in other sectors such as telecommunications and energy. As a result some 25 private sector water companies emerged which formed regional monopolies. Subsequently most of them have been taken over by private-equity funds, half of them foreign (see Bakker, 2003: 369 ff; Hall and Lobina, 2007: 23 ff.), which turned out highly profitable for them (Drews, 2008: 53).

In Scotland and Northern Ireland, water supply has not been (asset) privatised and is still operated in public ownership. In England and Wales, under the privatised regime, the water tariffs for private households are double compared to those in Scotland's public regime (see Hall and Lobina, 2001: 22).

In France where, during the 1970s, water provision has been increasingly dominated by the big three private sector water companies (Veolia, Suez and SAUR)⁷ (see Bondonneau et al., 2010: 134), an additional privatization impulse came in the wake of the municipal elections of 1983 when right-wing council majorities and neo-liberal-minded mayors were elected who pushed for outsourcing (functional privatization) of water provision (to one of the big three). Conspicuous privatization cases were the cities of Paris and Grenoble which until then had retained municipal operation (*en régie*) (see Hall and Lobina, 2001b).

In Italy, well into the 1990s, water provision was operated by some 9,000 small municipally owned facilities (Armeni, 2008). Because of the small size and the

⁶ This applies particularly to the Urban Waste Water Treatment Directive (91/271/EEC) of 21 May 1991 and the Drinking Water Directive (98/83/EC) of 3 November 1998 concerning potable water quality.

⁷ See above footnote 3.

lack of adequate capital investment, water provision has been costly with widespread leakage in the pipe systems aggravating the waste of water. In 1994 the Law Galli aimed at significantly reorganizing the country's water services by reducing the existing organizational fragmentation. A new institutional inter-municipal structure called *Ambiti territoriali ottimali*, ATO,⁸ was introduced which was designed to introduce competition into local water provision and to possibly involve also private sector companies, including foreign ones, in the water services (for details see Ascquer, 2013).

Subsequently, in 2009, the *Ronchi Decree*⁹ was adopted in 2009 under the right-wing Berlusconi government. It was destined to break the legal ground for the further privatization of the water services, particularly with the provision that the share in water companies held by the municipalities themselves must not exceed 30 per cent while making 70 per cent available for private investors. However, the implementation of this legislation has been halted, due to the outcome of the national referendum held on 8 June 2011 that ruled out the privatization of water.

In Germany, while the water services have been traditionally operated mostly by the municipalities themselves (in house) or by (about 7,000) *Stadtwerke* (see Citroni, 2007; VKU, 2010: 13), private sector water companies have entered the water market since the 1980s and 1990s by acquiring minority share positions in *Stadtwerke*. This applies to almost half of the country's 109 largest cities (see Deckwirth, 2008: 85). Among these private water companies, the French service giants Veolia and Suez and their German counterparts RWE and E.ON feature most prominently. In the perhaps most conspicuous case, Veolia and RWE, in 1999, acquired a total of 49.9 per cent of the shares of Berlin's Water Works, Germany's largest water company¹⁰.

Fourth Stage: A post-neo-liberal/post-NPM Comeback of Public/Municipal Delivery (Since the Late 1990s)

Since the late 1990s the conceptual and political context has, internationally, nationally and locally, moved into a post-neo-liberal and post-NPM direction that fosters a comeback of the public/municipal sector as a provider of public services. Is the pendulum swinging back to public/municipal sector-based service provision?

Since the late 1990s it has become more and more evident that the (high-flying) neo-liberal promises that (material or functional) privatization would usher in better quality of services at lower prices has not materialized. On the contrary, private service providers have often made use of the next possible opportunity to

8 Translated: Optimal Territorial Areas.

9 Named after Andrea Ronchi who was minister in the recent right wing Berlusconi government.

10 For the example of the city of Stuttgart, see Libbe et al. (2011b: 9).

raise prices and tariffs while at the same time deteriorating the working conditions of their employees. This conceptual and political disillusionment observable on the local level ties in with a corresponding shift in the national and international discourse in which, in the wake of the worldwide finance crisis that was triggered by the bankruptcy of Lehman Brothers on 15 September 2008, the relation between the state and the private sector has been critically reappraised and the crucial role of the state to redress private sector failures and market failures has been rediscovered (to the point of private businesses, not least banks, conspicuously for being bailed out) and has politically, ideologically and institutionally brought the state back in.

The disenchantment with private sector service provision has come strikingly to the fore in a survey which was conducted in 2010 by the Association for Public Service Excellence (APSE)¹¹ among 140 local authorities in England, Scotland and Wales. While 60 per cent of the responding local authorities indicated that they have begun or were preparing or planning to take previously outsourced services back (insource) into their own operation (see APSE, 2011: 11), in their responses, 'a need to improve efficiency and reduce service costs was the most cited reason for insourcing' (see APSE, 2011: 11). The assessment that in providing public utilities public enterprises are, as a rule (at least), on a par with private sector providers comes out in most available studies (see the broad overview in Mühlenkamp, 2013: 18)¹². The balance sheet becomes even more favourable for public/municipal provision if the transaction costs of the outsourcing of services (costs of monitoring, contract management and so on) are taken into account,¹³ not to speak of the negative welfare effects of privatized service provision and the positive ones (social, ecological and so on) of public/municipal provision (see Florio, 2004: 341¹⁴; see also Mühlenkamp, 2012: 42; 2013: 18).

Renewed Self-confidence and Action Orientation of Local Government

Hence, not surprisingly, the local authorities, for one, have rediscovered the provision of public utilities under their own responsibility and in their own operation as a strategy to generate revenues (that is profit) instead of leaving this to private sector providers. (In a recent survey conducted among German municipalities 74

11 See APSE's website www.apse.org.uk.

12 See Mühlenkamp, 2013: 18: 'Research does not support the conclusion that privately owned firms are more efficient than otherwise-comparable state-owned firms'. See also Bel et al., 2010, who, on the basis of numerous studies on water and waste services, summarize that 'our analysis provides empirical evidence that private production of local services is not systematically less costly than that of public'. See also Bel and Warner, 2008: 1341.

13 On this see also APSE, 2011: 11.

14 Florio, 2004: 341: 'The main conclusion of my study is that privatization had more modest effects on efficiency than the theory or property rights and other orthodox privatization theories may have expected. On the other hand, privatization did have substantive regressive effects on the distribution of incomes and wealth in the United Kingdom'.

per cent of the respondents indicated that a prime reason for remunicipalization was to achieve additional revenues, see Lenk et al., 2011; Reichard/Röber, 2012). Moreover, they seek and use this opportunity to regain political control over the quality and price-setting of service provision and to pursue social, ecological, and so on, objectives (welfare effects), for instance by way of cross-subsidizing structurally and chronically deficient service sectors (such as public transport). In doing so, they act upon and play out a political rationality which (ideally) is oriented on the common good and best interest of the local community.

Value Change in the Political Culture and Popular Perception

This reassessment of the merits of public sector-based service provision is also reflected and supported in a growing popular perception and sentiment which tends to value public sector service provision higher than private sector provision. This trend is evidenced by a growing number of local referendums in which the privatization of public services and facilities is rejected or their remunicipalization is demanded (for German examples see Mehr Demokratie, 2012: 42 ff.; Kuhlmann and Wollmann, 2014). On the national level a striking pertinent event was the national referendum held in Italy on 8 June 2011 in which the privatization of water provision was overwhelmingly rejected. The international if not global dimension and perspective of this development shows in the emergence and actions of social and political movements of which *Attac*¹⁵ is exemplary.

Reassessment of the Local Government Level in the Intergovernmental Setting

The readiness and motivation of local authorities to engage themselves and their municipal companies in the provision of public utilities has recently been fostered by remarkable changes in their intergovernmental setting.

For one, in the EU, and concomitantly in the national contexts, the status and function of the local government level has recently been strengthened as in the Treaty of Lisbon of December 2009 where local government has been explicitly recognized for the first time ever in EU constitutional law.¹⁶ Furthermore, and particularly relevant for the delivery of services of general economic interest, in a protocol to the Treaty of Lisbon (which has the same legal status as the Treaty itself) it has been stipulated that regarding these services of general interest the EU explicitly recognizes 'the essential role and the wide discretion of national, regional and local authorities in providing, commissioning and organizing services of general economic interest as closely as possible to the needs of the

¹⁵ <http://www.attac.org/node/3727>.

¹⁶ Article 3a section 2 of the Treaty of Lisbon: 'The Union shall respect the equality of Member States before the Treaties as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government' (bold letters added, H.W.).

users' as well as 'the diversity between various services of general economic interest and the differences in the needs and preferences of users that may result from different geographical, social or cultural situations'. This means that the EU has significantly mitigated its programmatic single market mandate and claim by virtually allowing local exceptions and possibly even local markets.

Furthermore, in certain policy fields, the local government level has been recognised as an important actor both by the EU and by the national governments. This applies prominently to environmental protection and energy saving. So, at their summit held in March 2007 the European heads of state agreed on an Energy Policy for Europe which called for a 20 per cent increase in energy efficiency, a 20 per cent reduction of greenhouse gas (GHG) emissions and a 20 per cent share of renewable energy sources in overall EU energy consumption by 2020 (see Praetorius and Bolay, 2009). For achieving these energy and climate preserving policies the local authorities have been recognized as crucial actors.

Grid-specific Window of Opportunity

Finally, as in the field of grid-based services, such as energy and water, the municipalities in most countries have the right to grant (time-limited) concessions to the enterprises that want to establish and use such grids, and as currently many of these concessions contracts expire, a window of opportunity is opening for the municipalities to renegotiate the concessions contracts and to possibly remunicipalize the services.

On this backdrop it will be briefly discussed in the following whether and why such remunicipalization has taken place. Hereby the energy and water sectors will again be singled out as cases in point.

Energy Sector

In the UK, since the (asset) privatization of the energy sector in 1989, the country's energy market has been dominated by private energy companies, while the local authorities were left with an all but marginal role, for instance in the operation of district heating services (see McEldowny, 2007). However in a recent conspicuous policy turn, the conservative-liberal coalition government has explicitly encouraged the local authorities to resume a responsibility in the energy sector particularly by engaging in the generation and utilisation of energy saving and renewable energy generation technologies.¹⁷ The national goal has been set to supply 15 per cent of the country's energy consumption from renewable energy

¹⁷ On 28 August 2010, Chris Huhne, Secretary of State for Energy and Climate Change, wrote in a letter to all local authorities that 'for too long, Whitehall's dogmatic reliance on "big" energy has stood in the way of the vast potential role of local authorities in the UK's green energy revolution' <http://www.decc.gov.uk/publications/basket.aspx?FilePath=News%2f376-unlocking-local-power-huhne-letter.pdf&filetype=4#basket>.

by 2020. Enabling legislation has followed suit. In the meantime a considerable number of local authorities have initiated local projects, particularly pertaining to power and heat coupling (in conjunction with district heating) and in solar energy. Sheffield, Leeds and Bradford are leading the UK in renewable energy installations¹⁸ (see McEldowney, 2013). However, the local level initiatives appear to have recently slackened. 'The climate change work has narrowed, is very weak or absent in 65 percent of local authorities' (Scott, 2011).

In France, the electricity market continues to be dominated by EdF which is still in 80 per cent state ownership, generates 75 per cent of the country's energy production from its 24 nuclear power stations and is encouraged by government policy to be a champion on the national as well as international energy markets.

Some 230 municipal energy companies which were exempted in 1946 from nationalisation continue to provide energy services to not more than 5 per cent of the households. Their generation of electricity is, to a considerable degree, based on renewable (particularly hydro) sources. So far, notwithstanding their potential in renewable energy, the role of the municipal companies has apparently remained limited also because they continue to be legally restrained to only serve their respective local market (see Allemand, 2007: 40).

While ENEL (which is in 30 per cent state ownership) and other institutional and individual (largely private sector) companies currently play a major role in Italy's energy market, the municipal energy companies (*municipalizzate*) which, in 1962, were exempted from the nationalisation continue to hold a fairly strong position in the energy sector (see Prontera and Citroni, 2007). This applies particularly to big cities. In 2008 the municipal companies of Milano (1.2 million inhabitants) and Brescia (190,000 inhabitants) merged to form a consortium-type stock company called *A2A* which is listed on the stock market and generates 3.9 per cent of the country's electricity, while a multitude of other small municipal companies generates another 10 per cent (see AEEG, 2011: 51). As Italy has politically and legally committed itself to do without nuclear power, the municipal energy companies whose power generation traditionally has a strong alternative and renewable (hydro) energy component (see AEEG, 2001: 52) appear to be poised for an expanding role in the country's energy sector (see Prontera, 2013).

Whereas, well unto the late 1990s, the big four private sector energy companies made significant advances on Germany's energy market, recently the *Stadtwerke* have significantly regained ground for a number of reasons (see Wollmann and Baldersheim et al., 2010; Libbe et al., 2011b: 6 ff.).

For one, as the EC Acceleration Directive 2003/54 exempted energy companies with less than 100,000 consumer households from applying the unbundling

18 <http://www.energyefficiencynews.com/i/4462/>, For an updated list ('league table') of the UK's local authorities most active in renewable energy generation see <http://www.aeat.com/cms/assets/MediaRelease/2011-press-releases/Microgeneration-Index-Press->

requirement, most *Stadtwerke* do not fall under the unbundling requirement. It should be noted that the exemption was written into the directive upon demands made by the German federal government explicitly on behalf of the German municipalities which claimed that the unlimited application of the unbundling mandate would jeopardise the operational and economic survival of their *Stadtwerke*.

Moreover, since the *Stadtwerke* have traditionally focused on energy-saving technologies (such as heat and power coupling, HPC), they have become crucial local actors in the eyes of the federal government all the more as the latter, in a dramatic policy turnaround in reaction to the nuclear disaster in Fukushima, decided, in June 2011, to terminate the country's nuclear power generation by 2022. At the same time, the European Commission, in recognizing the competitive potential that the local energy companies have in the local and regional energy markets, proceeded to strengthen their competitive muscle by exerting pressure on the big four (E.on, RWE, EnBW, Vattenfall) to sell local grids and give up previously acquired minority shares in *Stadtwerke*.

Furthermore, the *Stadtwerke* have learned how to cope with the new competitive environment by improving their entrepreneurial skills and their operational base (for instance by promoting inter-municipal cooperation, by involving private investors and so on).

Moreover, the municipalities have (re-)discovered the potential of their *Stadtwerke* to achieve much needed local revenue and to satisfy specific (social, and so on) needs and interests of the local community, and to thus practice political rationality, for instance by cross-subsidizing deficit-ridden local public transport services.

Finally, this recent push coincided with the expiration of an increasing number of concession contracts on local grids.¹⁹

Hence, many municipalities have turned to repurchase local grids and shares of the *Stadtwerke*. The dynamics of this development is evidenced also by a growing number of newly founded *Stadtwerke*.²⁰ A conspicuous recent example is Thüga, a subsidiary of E.on, which was purchased in the summer 2009 by a consortium of some 100 *Stadtwerke* for the amount of €3 billion;²¹ it now holds about 6 per cent of the country's electricity market.

As of 2010, 700 *Stadtwerke* out of a total of 1,372 municipal companies²² are engaged in the energy sector, with one-third of them in power generation. Of the locally generated electricity, 84 per cent stems from heating and power coupling

19 Between 2000 and 2001 some 3,000 out of a total of 20,000 concession contracts, see Libbe et al., 2011b: 6.

20 See Libbe et al., 2011b: 8 for an (incomplete) list of some 30 newly founded *Stadtwerke*.

21 See for instance Euroforum, 28 October 1998, 'Stadtwerke and municipalities reconquer the energy market', <http://www.blogspan.net/presse/stadtwerke-und-kommunen-erobern-energieversorgung-zuruck/mitteilung/122972/>.

22 With 241,535 employees which is about one-tenth of the entire local government

(HPC) and 16 per cent from other, particularly renewable, energy sources. The locally generated electricity amounts to 10.4 per cent of Germany's entire power generation (see VKU, 2009).

Water Sector

Although the privatized water services in England and Wales have been severely criticized (not least for high tariffs and high operating profits),²³ a politically relevant discussion about turning the water services back to public (state or local) operation has so far not materialized.

While in France, well into the early 1990s, the privatisation of water services by the traditional modality of outsourcing (*gestion déléguée*, to one of the big three) has further advanced a process of remunicipalizing water services has gained momentum since the late 1990s. First of all steep price and tariff hikes have increasingly discredited the privatization of water provision. When left-wing council majorities and mayors regained power, they sought to undo the privatisation effected by their right-wing predecessors and to make use of the expiration of concession contracts in order to remunicipalize water services. The pertinent decisions made in Grenoble and in Paris (in 1989 and in 2000 respectively) are cases in point (see Let Strat, 2010 for these and other examples).^{24, 25}

It should be kept in mind, however, that the pace of remunicipalisation has remained hampered by the high compensation payments liable to be made to private investors and by the lack of skilled local government personnel (see Bordonneau et al., 2010: 136). Moreover, experience shows that the three large private water companies find themselves in a powerful negotiation position which often amounts to what has been critically labelled a regulatory capture of the municipalities (see Varin, 2010). Thus, about 90 per cent of contracts tend to be renewed with the same concessionaires. On the top of it, many municipalities, including large ones, do not have the capacity to monitor and control the concession contracts, particularly regarding increases of water tariffs (see Cour de Comptes, 2003).

In Italy, the large-scale privatisation of Italy's water sector at which the Ronchi Decree of 2009 was targeted was conspicuously stopped by the national referendum held on 11 June 2011 in which the Ronchi Decree was rejected by a 96 per cent majority. The political mobilisation against water privatisation was largely carried by the (left-leaning) *Forum Italiano dei Movimenti per l'Acqua*²⁶

23 The tariffs increased by 46 per cent in real terms between 1990–2000, while the operating profits rose by 142 per cent in eight years, according to Hall and Lobina, 2001.

24 As a result, the percentage of water services rendered by the municipalities themselves rose from some 18 per cent of the country's population in 1970 to 28 per cent in 2008 (see Table 1 in Bordonneau et al., 2010: 134).

25 In the case of Grenoble the mayor was convicted of corruption and sentenced to prison. The concession contract concerned was cancelled, see Hall and Labina, 2001.

26 Translated: Italian Forum of Water Movement.

which was founded in 2006 and was composed of some 150 municipalities and political organizations.²⁷

While in Germany, well into the early 2000s, private water companies, including major players such as Veolia, Suez, RWE and E.ON, made significant advances in the (still municipally dominated) water sector, recently a counter-trend has apparently set, as municipalities make use of upcoming expiration of concession contracts to renegotiate the contracts and to regain control over the local water services. This development has been prompted not least by demands of the local citizens, as expressed in a growing number of binding local referendums. Thus, in the city of Stuttgart where, in 2003, water provision was completely sold to a large German provider (EnBW), the city council, in responding to a pertinent local referendum, decided in June 2010 to repurchase the water work, once the concession contract expires in 2013²⁸ (for other examples see Kuhlmann and Wollmann, 2013).

Remunicipalization in a Wider Country and Sector Perspective?

Varying in rate and intensity processes of remunicipalization can be also observed in other service sectors, such as waste management, public transport, as well as in other countries (see Hall, 2012; Dreyfus et al., 2010). An intriguing example of the dynamics of a local multi-utilities operation is offered by the German city of Bergkamen (50,000 inhabitants) which, under the innovative leadership of a committed mayor, has become a pilot in remunicipalizing public services in a broad multi-utility mix that includes energy, waste management and public transport (see Schäfer, 2008; for other examples see Kuhlmann and Wollmann, 2014).

Fifth Stage: A New Privatization Push in the Wake of Recent Budgetary (Sovereign Debt) Crisis

New Wave of Privatization Triggered by the Recent Budgetary Crisis?

In the most recent development there are indications that again the pendulum may be swinging back again towards stepped up privatization in the public utilities sector.

For one, this may pertain to the EU countries in general as the European Commission has, in late 2012, proposed a directive on the award of concessions contracts which would pertain to all types of services of general economic interest and thus also including water services. It would mean that whenever a concession on these grid-based services elapses and comes up for prolongation the

27 <http://www.fame2012.org/index.php?id=52>.

28 http://www.wasser-in-buergerhand.de/nachrichten/2010/stgt_fuer_rekommunalisierung_wasser.htm.

municipalities would be obliged to put it out to tender. On 29 January 2013 the draft directive was approved by the respective Committee of the European Parliament. The draft directive has evoked great alarm and concern particularly among the German municipalities and their *Stadtwerke*. They perceived and rejected the draft directive as contradicting and virtually nullifying the wide discretion that the Lisbon Treaty of December 2009 recognized and accorded to the local authorities in their decision on how to locally organize service provision.²⁹ At the time of writing, the issue of the draft directive is still pending as it still needs to be finally adopted and, if adopted, to be transposed into national legislation.

However, a new wave of (large-scale) privatization in the public services sector (and beyond) appears to be triggered in the budgetary crisis-ridden South European countries which face increasing demands by the European Commission, the European Central Bank and the International Monetary Fund, embodied in the so called Troika, to sell public assets, including not least municipal public service providing facilities and companies in order to reduce the public (sovereign) debts³⁰.

Conclusion

In the conclusion of the chapter we will resume the initially formulated guiding question of whether and why the organizational form (*public/municipal* or *private*) of public service delivery as well as its operational logic (*political* or *economic*) shows convergence or divergence over time in the countries and service sectors under consideration.

Our analysis and account suggest that the each of the five developmental phases that were hypothetically discerned shows common as well as varied features. The explanation of such commonality as well as variance may be, in drawing on the aforementioned conceptual variants of institutionalism, sought, first of all, in path-dependent structures, political (and so on) decisions and discourses.

A pronounced, organizationally convergent development can be detected in the historical origins of local level service provision since the second half of the nineteenth century. The local authorities were engaged in the provision of (then still elementary) public services in what conservative and Manchester liberal opponents of the time mockingly called municipal socialism. Thus, for some services and some countries an all but path-dependent tradition of local government-based delivery, be it in house or through municipal companies (such as *Stadtwerke* in Germany), has caught roots. An early deviation from this pattern emerged in France where the municipalities tended to outsource service provision

29 See for instance, <http://www.right2water.eu/de/news/how-concessions-directive-new-piece-longer-struggle-privatise-water-and-make-money-out-water>.

30 Regarding the pressure of the European Union on Greece, Portugal and Spain to privatize water see <http://www.tni.org/pressrelease/eu-commission-forces-crisis-hit-countries-privatise-water>.

to outside (mostly private sector) providers which has become a France-specific path-dependent feature of service provision and has turned out the launching pad for private sector service companies to come to dominate the national and international markets.

Reflecting the political/ideological disposition of the advancing and advanced (national) welfare state to rely on public sector-centred service provision, it was after 1945, in a largely convergent development, politically decided in the UK (under the incoming Labour Party with a socialist connotation), in France (under DeGaulle with a modernist connotation) and later in Italy, to nationalize the energy sector, that is, to turn it over to state-owned companies (in France: EdF; in Italy: ENEL) or agencies. By contrast, in (West) Germany the energy sector continued to be left to the existing plurality of (largely) private sector companies as any nationalization was politically and ideologically alien to the conservative (post-war) federal government. The hitherto existing local energy companies were more or less marginalized.

With regard to water provision (and to other public services), the local authorities, in line with their path-dependent tradition, continued to render such services, in Germany and Italy particularly through municipal companies (*Stadtwerke*, *municipalizzate*), and in France in the traditional form of outsourcing (*gestion déléguée*). As an exception, in the UK the water sector was also nationalized which added to making the UK appear the epitome of the post-war (social democratic) advanced public sector-centred welfare state.

Under the impact of the neo-liberal policy shift (and later of the EU's market liberalization drive) the UK was first, and went the furthest, in entirely (asset) privatizing the hitherto state-owned energy sector, as well as, subsequently, the publicly operated water sector. Italy and France followed suit in privatizing ENEL and EdF, respectively: however, in Italy the state retained 30 per cent and in France as many as 80 per cent of the shares – the latter hinting at France's determined protectionist industrial policy. In Germany, the deregulation of the energy sector led, in a seeming paradox, to mergers and market concentration of the big four private sector providers. The municipally owned energy companies (*Stadtwerke*) seemed doomed to be squeezed out (*Stadtwerkesterben*).

Since the late 1990s, as the neo-liberal policy and discourse dominance has faded and given way to the perception of the shortcomings and drawbacks of private sector-based service provision along with the reappraisal of the capacity and potential of the public/municipal sector, in the field of energy provision the municipalities and their companies have returned to or have stepped up their activities particularly, herein encouraged by national and EU policies, in renewable energy and energy saving measures – with the German *Stadtwerke* figuring prominently. In water provision, too, the municipalities and their companies have begun to regain ground which they recently lost to private sector providers. Thus the pendulum that, under the neo-liberal shibboleth, swung towards private sector predominance has started to oscillate back to public, particularly municipal sector provision. In a historical long-term perspective the organizational form appears to have run full cycle, from local government to local government provision.

Most recently, however, in the budgetary (sovereign debt) crisis-ridden South European countries, under external international pressure, embodied by the so-called Troika, a new wave of privatization has been unleashed which is targeted, through the sale of public, not least municipal, assets to reduce and relieve the public indebtedness.

Regarding the *operational logic* of public service provision, in the historical long-term perspective the local government based delivery in the early nineteenth-century phase which can be seen as guided by a political rationality in the sense of taking a wide range of local (social, infrastructural and so on) needs and interests of the local community into account, possibly at the detriment of strictly economic goals. In the further development of the advancing and advanced national welfare state and its public sector dominance of service provision, again political rationality can be interpreted as giving priority to the wide spectrum of social, ecological, and so on, goals (welfare effects), but at the risk of neglecting or putting last narrowly understood economic concerns. In reaction to this alleged disregard of economic efficiency the neo-liberal market-liberalization phase gave prime importance to economic rationality at the possible price of ignoring non-economic (social, ecological, welfare and so on) concerns.

At last, the remunicipalization of service delivery arguably holds the promise and harbours the potential of combining the political and the economic rationalities. Being politically embedded in the local community, its demands and accountability, the provision of public services is prone to respond to and heed the gamut of needs and interests in what is captured in the term and concept of political rationality. At the same time, however, facing the challenges by private sector competitors, the municipalities and their companies have been compelled and have learned to adopt and pursue economic rationality as well. Putting it somewhat pointedly and ideally, the remunicipalization of public services has the potential to combine and achieve the best of the two worlds.

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