

The directly-elected mayor in the German Länder—introduction, implementation and impact

Hellmut Wollmann

In the early 1990s, all German Länder (states) introduced direct election of executive mayors, along with the procedures to recall a sitting mayor by local referendum. This paper looks at the context and causes of this major institutional change and its impact on local politics. Although the directly-elected executive mayor has risen to a dominant position, effective institutional and political checks and balances are in place to prevent misuse of power. Finally, the German reforms are compared with other European countries.

Keywords: Council and mayoral elections; decoupling of council and mayoral elections; directly-elected mayors in German Länder; professionalization of mayors; recall of mayors.

The introduction of directly-elected mayors in German local government is a particularly useful case study for investigating the effectiveness of mayoral government. There are two main reasons for this:

- When democratic local government resumed in Germany after 1945, each of the newly-established (West) German Länder chose their own governance with most (six out of eight) following the traditional pattern of a council-elected local executive and only two (Baden-Württemberg and Bavaria) opting for directly-elected mayors. Therefore directly-elected mayors have been in place in these two Länder for nearly 60 years.
- In the early 1990s and very quickly, all the other (13 West German and East German) Länder adopted directly-elected mayors.

This paper looks at the German case, starting with an overview of the historical development of mayoral form of governance. It then explains how directly-elected mayors work in Germany. Next it addresses the impact that directly-elected mayors have had on the local government system. Finally, the international context is explained.

Development of local government in Germany after 1945 until the late 1980s

When democracy and constitutional government were restored in West Germany after 1945, the Länder introduced statutes that were shaped by both tradition and by the intervention of their respective occupational force. With regard to the position of the local mayor/executive four

trajectories can be distinguished in post-war Germany:

- In the two Länder of RheinLand-Pfalz and Saarland, a local government system (elected council plus council-elected executive mayor form) was put in place in which the decision-making power lay with the elected local council, with the local mayor being elected by the council. The council-elected mayor had some chief executive functions and the arrangement was essentially a local parliamentary system.
- In the Land of Hessen (as well as in the city states of Hamburg and Berlin), an elected council plus council-elected 'Magistrat' (executive) form was adopted—the Magistrat being a collegiate body with a mayor as an equal among equals (see Kleinschmidt and Nendza, 1994). The collegiate Magistrat can be traced back to the Prussian Municipal Statute (Preussische Städteordnung) of 1808.
- There were remarkable breaks from regional tradition in the Länder of Nordrhein-Westfalen and Niedersachsen. Up to 1933, local government in these regions largely operated under the elected council plus council-elected (executive) mayor model. After 1945, under the influence of the British Occupational Force which considered the traditional (Rhinish) executive mayor as a potential threat to local democracy, a local government system was adopted in which the council-elected mayor was little more than a symbolic function (of chairing the council) with the local administration directed by a chief executive (Stadtdirektor) who was

Hellmut Wollmann is Emeritus Professor of Public Administration and Public Policy at Humboldt-Universität Berlin, Germany.

appointed and controlled by the elected local council. This situation, of course, is similar to 20th-century English local government.

- In the early 1950s, the Länder of Baden-Württemberg and Bavaria introduced the direct election of an (executive) mayor which, with an elected local council and a directly-elected mayor, is a kind of local presidential system (Derlien, 1994). There are two reasons for this. In the Land of Württemberg, which in the early 1950s was integrated in the newly-created Land of Baden-Württemberg, the direct election of the mayor had been installed from 1891 to 1933 (see Wehling, 2003, p. 25) as a conspicuous 'first' in European local government history. Second, after 1945, these Länder were part of the American Occupational Zone and the adoption of the directly-elected mayor model was inspired by US tradition. The directly-elected mayor in these two Länder were a notable institutional innovation in post-war European local government.

So a variety of local government systems were operating in the Länder after 1945. Over the years, German local government has become a kind of laboratory and testing ground for different institutional options and solutions.

The 1990s shift to directly-elected mayors

The bushfire-like spread of the direct election of mayors after 1990 throughout the German Länder was driven by concerns about a democratic deficit and a performance deficit in most Länder.

Democratic deficit

The institutional logic that guided local government in post-war Germany was dominated by the principle of representative democracy and by skepticism of direct democratic procedures. The latter was the result of the traumatic experiences of the final years of the Weimar Republic when direct democratic rights in the form of referendums were easy prey for demagogues from the radical right and left (see Wollmann, 1999, p. 38). During the 1960s, the prevalence of (political party-dominated) representative democratic institutions was increasingly questioned in the wake of the student rebellion, the related emergence of an 'extra-parliamentary opposition', but also by new demands for increased citizen participation in local decision-making.

There were a number of reasons for the changes in local governance in the 1990s:

- Calls to increase direct democratic citizen rights.
- Political scandals in some Länder resulting in an urgent need for reform of political institutions.
- The 'peaceful revolution' in East Germany and the role that democratic movements played in toppling the Communist regime (see Wollmann, 2002, p. 157).

Against this background, the introduction of the directly-elected mayors was accompanied by legislation setting out procedures for recalling a mayor by local referendum, as well as with the introduction of binding local referendums.

Performance deficits

A prime reason for installing directly-elected mayors was a growing concern about local authorities failing to 'govern' municipalities in the face of 'wicked' problems and budget crises. Reformers increasingly turned to the south German, particularly Baden-Württemberg model, of the directly-elected strong mayor as an institutional remedy for restoring and ensuring the 'governability' and 'manageability' of local government (see Banner, 1984).

The most revealing reform trajectory was in the Land of Nordrhein-Westfalen where a local government model had been introduced after 1945 which, under the influence of the British Occupational Force, reduced the position of council-elected mayor to chairing the council, while creating the separate position of a council-appointed (professional) chief executive (Stadtdirektor). Over the years this institutional model was the source of rivalries and tensions between the mayor and chief executive. As a result, the 'doubled-headed' executive (Doppelspitze) of mayor and chief executive was viewed as an institutionally built-in threat to effective local leadership (see Banner, 1984; Kleinfeld and Nendza, 1996).

During the early 1990s, in a quick succession of legislative changes, the various governance models in the Länder gave way to an institutional design based on the direct election of a mayor. The historical quasi-parliamentary form of local government in Germany shifted to a quasi-presidential system (see Derlien, 1994).

This revolutionary shift to a directly-elected mayor was stunning. The reason for the break with traditional governance was that a 'critical juncture' was reached (see Pierson, 2004; Kuhlmann and Wollmann, 2014) in which different, mutually-reinforcing factors coincided. In the case of the shift to directly-elected mayors, one factor was the political and academic debates about democratic and performance deficits in

local government that had gathered momentum during the 1980s where, heavily influenced by Gerhard Banner (1984), the Baden-Württemberg model was increasingly perceived and accepted as the local government model that, in democratic and operational terms, was superior to the other existing local government models. In the early 1990s, political scandals in some West German Länder increased pressure to reform the traditional representative democracy-based and political party-dominated political institutions and procedures of local government. Finally, the fundamental political and institutional transformation in East Germany since the late 1980s further fuelled the institutional reform debate in West Germany. The Länder, one after the other, choosing a directly-elected mayor can be conceptually interpreted as 'mimetic' (see DiMaggio and Powell, 1991) and of diffusion and learning among and between regional élites and populations (see Dolowitz and Marsh, 1996).

Legislation in the Länder

Legislation in the different Länder to introduce directly-elected mayors is not uniform and there are some important differences between Länder.

Strong mayor model

Baden-Württemberg's strong mayor model was the role model for the other Länder. The most important aspect of this model is that the mayoral position is politically rooted both inside and outside the local arena by direct democratic legitimacy. The mayor chairs the local council, largely sets its agenda and has the deciding vote in the case of a tie. The mayor also chairs council committees. Only in the Land of Brandenburg is the council chaired by a councillor who is elected to that role by the council.

The Baden-Württemberg model gives a mayor CEO powers; there is no chief executive or city manager-type administrator in post. In most Länder, the statutes also provide for deputy mayors (*Beigeordnete*) who are elected by the local councils on a political party proportionate formula. They may direct council departments, but they are subordinate to the mayor (see Holtkamp, 2003). Together with the mayor, the deputy mayors form a kind of executive cabinet which introduces an element of collective executive responsibility. The mayor, in the case of conflict, has the decisive final word.

In the Baden-Württemberg model, the mayor represents the municipality in its relations with the upper government levels (including the EU).

In sum, tailored on the Baden-Württemberg

model, the directly-elected mayor is certainly strong both politically and administratively.

Mayoral term of office

There are variations between Länder with the mayoral term of office ranging from six to nine years. Following the Baden-Württemberg model, most Länder (11 out of 13) have opted for different terms of office for the council and mayor, so mayoral and council elections are held at different times.

Available empirical evidence suggests that holding the mayoral elections separately from council elections has a significant effect on a mayor's role. When a mayoral race is set apart from a council election, it is decoupled from the party-political conflicts and competition which typically characterize council elections. The low (or at least lower) profile which party politics has in such mayoral races means that the mayoral candidate, and subsequently the sitting mayor, tend to seek and assume a somewhat non-partisan stance. For example, only half of the mayors in Baden-Württemberg have been members of a political party. A non-partisan mayor needs to seek consensus and compromises 'across the aisles'. Baden-Württemberg's culture of mayoral non-partisanship has been described as 'consensus-based democracy' (*Konkordanzdemokratie*) (Wehling, 2003; Holtkamp, 2009).

The non-partisan profile of mayors in Baden-Württemberg is in stark contrast with the distinctly party political one in the Land of Nordrhein-Westfalen. This was particularly the case in the first mayoral election round in 1999, which was held at the same time as the council elections. At that stage the overwhelming majority of the mayoral candidates belonged to a political party while only 15% were non-partisan (Gehne, 2002). This high degree of party-politicization is seen to reflect the 'competitive democracy' (*Konkurrenzdemokratie*) which characterizes the political culture of the Land of Nordrhein-Westfalen (see Holtkamp, 2009).

The directly-elected mayor—towards a professional career?

The Länder do not require any particular qualification for mayors (this is because the office is regarded as intrinsically political); any local citizen can be a mayoral candidate. Hence, there have been concerns expressed that 'amateurs' and 'dilettantes' might be elected. Furthermore, misgivings have been expressed that, as the mayor is well paid and has considerable status and power, demagogues, if not mavericks, might run for the mayor and, worse, could win an

election.

However, these concerns have proved to be unfounded. On the contrary, as the experience in Baden-Württemberg shows, a process of professionalization has evolved. Thus, in Baden-Württemberg about 90% of the elected full-time mayors have an administrative background (Bogumil, 2001; Wehling, 2003). Many of those seeking and occupying a mayoral position in smaller and middle-sized towns are graduates from administrative colleges (Fachhochschulen), while those in cities of more than 50,000 inhabitants are often law school graduates. Sixty per cent of mayors in Baden-Württemberg have considerable prior administrative experience in municipal and county administration or Land ministries (Holtkamp *et al.*, 2003). The professionalization of mayors is encouraged by local voters who tend to elect mayoral candidates whom they consider prepared and trained for doing a good job as mayor.

Incumbent mayors, particularly in larger cities, often seek re-election for a second or third term. Thus, striving for, preparing for and occupying the mayor's office has increasingly become a professional career in its own right. Mayoral candidates in middle-sized and larger cities have often served as mayor in smaller cities.

Voter turnout

Turnout for local council elections has been decreasing. Until the 1970s, it was about 60% but now it has dropped to between 50 and 55%. So directly-elected mayors do not, as some have claimed, increase vote turnout.

In addition, according to a study that was conducted on local elections in 70 cities with more than 100,000 inhabitants, turnout for

mayoral elections is less than for council elections (Konrad Adenauer Stiftung, 2011). In 23 cities, voter turnout in the mayoral elections was about 10% lower than in the council elections. In some cases the voter turnout in the mayoral elections was just 30%, and in an extreme case 23%.

Recall procedure

In another important institutional innovation which accompanied the introduction of the direct election of the mayor, 11 Länder passed legislation allowing a sitting mayor to be removed from office by the local citizens by way of a local referendum (see Wollmann, 2001; Fuchs, 2007). This legislation gives citizens a direct democratic instrument to hold the sitting mayor politically accountable. The introduction of the recall procedure, for which there is no precedent in German (or European) local government history was clearly inspired by the recall provisions that are used in the US.

There are two variants of the recall procedures:

- Consistent with the underlying direct democratic logic, the local citizens are not only given the right to vote on a recall referendum (under certain procedural and majority requirements), but also to initiate this procedure (following a petition with a required number of signatures). However, only three Länder—Brandenburg, Sachsen and Schleswig-Holstein—have adopted this. Interestingly, two of the three are East German Länder which probably reflects the democratic experience of their post-communist founding period.
- In the other Länder, the recall procedure is

Table 1. Direct election and recall of mayor (after Wollmann, 2004).

	Start date	Direct election	Term length		Recall procedures			
		Mayor	Mayor	Council	Mayor	Popular initiative minimum % of electorate	Council initiative minimum number of votes	Minimum % of yes from electorate
Baden-Württemberg	1/4/56	+	8	5	-			
Bavaria	15/1/52	+	6	6	-			
Brandenburg	5/12/93–20/5/98	+	8	5	+	25 or 15%	2/3 majority	25
Hesse	20/1/91–20/5/92	+	6	5	+		2/3 majority	25
Mecklenburg-Vorpommern	13/6/99	+	7/9	5	+		2/3 majority	33.3
Niedersachsen	22/8/96	+	5	5	+		2/3 majority	25
Nord Rhein-Westphalia	17/10/94	+	5	5	+		2/3 majority	25
RheinLand-Pfalz	5/10/93	+	8	5	+		2/3 majority	30
Saarland	16/6/94	+	+				2/3 majority	30
Sachsen	12/6/94	+	7	5	+	33.3%	3/4 majority	50
Sachsen-Anhalt	12/6/94	+	7	5	+		3/4 majority	30
Schleswig-Holstein	23/7/96	+	6/8	5		25%	2/3 majority	33.3
Thuringia	12/6/94	+	6	5	+		1/2 majority	30

initiated only by the local council, while the local citizens are entitled to vote on recall motions.

Interestingly, the Länder of Baden-Württemberg and Bavaria which were the first to introduce directly-elected mayors have so far refrained from inserting the 'recall' procedure.

Recall procedures have frequently been initiated and have often resulted in the removal of sitting mayors from office. Between 1995 and 2006, some 36 recall procedures led to the removal of a mayor (Fuchs, 2007). Of these 36, 17 took place in the Land of Brandenburg where the recall procedure can be kicked off by local citizens. Between 1994 and 1998, 10% of mayors were removed from office by local recall referendums in what in the media and political discussion came to be labelled a 'new popular sport' of local citizens of 'playing bowling with the mayors' (Bürgermeisterkegeln). Subsequently, somewhat irritated by this (politically unexpected) development, the parliament of Land of Brandenburg raised the minimum requirement for local citizens to initiate a recall procedure. But, even after the procedural bar was scaled up, the number recalls has remained comparatively high in Brandenburg suggesting that employing this direct democratic procedure has caught roots in this Land's political culture.

Impact on the local politics

Position of the mayor in the local political space

The political leadership role and position of the mayor is significantly enhanced by direct election. With the exception of the Land of Brandenburg, the mayor also chairs the plenary sessions of the council as well as the council committees and has therefore been described as a 'local president' or even an 'elected (local) monarch' (Wahlkönigtum) (Wehling, 1989).

Drawing on his electoral legitimacy as a source of power, a mayor has a variety of strategies available from back-room negotiations to convening roundtables and conferences. The mayor is therefore a city's key political player.

Against this background, the directly-elected strong mayor could conceivably become a local dictator. However, as evidenced by Baden-Württemberg and Bavaria (see earlier in this paper), a set of institutional, political and also cultural checks and balances are in place to prevent this:

- Recall procedures.

- A mayor's non-partisan profile.
- A sitting mayor's wish to run for re-election.

Do directly-elected mayors make a difference?

Supporters of directly-elected mayors have argued that Baden-Württemberg's directly-elected strong mayor model is politically and institutionally better equipped than the traditional council-elected mayor form to cope with the ever growing (especially financial) problems and challenges of local government (see Banner, 1984). However, surprisingly little systematic empirical work has been carried out comparing the two models. Work that has been done concludes that a significant difference could not be reliably shown in the financial performance between the two contrasting models (see Kunz and Zapf-Schramm, 1989; Bogumil, 2001).

Mayor/council relations

Mayors in Germany have a dominant position in the local political system. However, local councils continue to play an important role and counter-balance a mayor's power. This is evidenced by the frequency of plenary sessions of councils and by the substantive functions which the council committees exercise in local decision-making. The size of councils varies, for instance in the Land of Nordrhein-Westfalen, there are around 30 councillors on smaller town councils and there can be 70 councillors in larger cities (Schulenburg, 1999). As local councils are elected (with some variance between the Länder) using proportional representation, they are, as a rule, composed of a plurality of political parties including Christian Democrats, Social Democrats, Greens, Liberal Democrats, as well as local independent groupings (so-called 'city hall parties'—Rathausparteien) (Göhlert *et al.*, 2008). While mayors tend to take a non-partisan position, local councils often continue to be subject to party political competition and conflict.

The recall procedure gives a qualified majority of the local councillors the ability to have a vote of non-confidence or to impeach a mayor. Although recalls are ultimately decided at the ballot box by local citizens, they are a significant part of mayor/council relations.

Mayor/citizen relations

Relations between the local citizens and the mayor have significantly changed since the introduction of directly-elected mayors. Since sitting mayors are generally keen to run for a second (or even third) term, local citizens can

hold him/her accountable for his/her performance at the next election. In addition, the recall procedures in place provide citizens with the direct democratic right to hold the sitting mayor accountable for political, administrative and other failures and shortcomings by removing him/her from office.

Finally, the binding local referendums which have been on place in all German Länder since the 1990s are another instrument of direct democratic empowerment of local citizens. These referendums were a major innovation in German local government (see Wollmann, 2008). Historically, binding local referendums began in neighbouring Switzerland in the 19th century (see Kübler and Ladner, 2003). In German Länder, local referendums have been used to reverse decisions made by a mayor and council, for example in the construction of bridges and tunnels, and the privatization of municipal enterprises and facilities (Kuhlmann and Wollmann, 2014). Hence, by employing the binding local referendum, local citizens have a significant tool to control the local council as well as the local mayor, thus recalibrating the local power balance.

International comparisons

To compare the changes in local political and administrative leadership in European countries, it is useful to distinguish two groups of countries (see Wollmann, 2009):

- Local government models in continental European countries date back to the French post-revolutionary municipal legislation of 1790. The elected local council is essentially the local decision-making body; the mayor is elected by the council and is responsible for the executive. This is effectively a local parliamentary system.
- Local government in Nordic countries (UK and Scandinavia) is rooted in a 'government by committee' model in which the relevant local government decision-making powers are exercised collectively by the council or by council committees.

Since the 1990s the local government systems in both groups have been subject to profound changes, particularly in the institutionalization of the local political and administrative leadership.

Hence, there has been a remarkable expansion of directly-elected mayors in continental European countries, initially in Germany and Italy (Bobbio, 2005). In post-

communist countries, the directly-elected mayor model began in Hungary (in 1990 for small municipalities), followed by the Russian Federation (1991) (Wollmann and Gritsenko, 2008), and Slovenia (1993). In a second wave of reform, it was adopted in Poland (2002) (Swianiewicz, 2005) and in Croatia (2009) (Kopric, 2009). France has remained a peculiar case in that, while the mayor continues to be formally elected by the local council, he or she is, in practical political terms, 'directly-elected' as well (Kerrouche, 2005). As, in a growing number of countries, the directly-elected mayor model has replaced the council-elected mayoral form, the development can be interpreted as the movement towards a presidential-style of (monocratic) local leadership. While in some countries (such as in the Germany) the directly-elected mayor possesses CEO powers, in others (such as Italy) he or she is seen primarily as a political leader and a separate position has been created for a council-appointed CEO administrator (city manager etc.) (see Bobbio, 2005).

In countries where local government has traditionally been anchored in the government by committee model, reforms have focused on 'de-collectivizing' the previously collegiate-style decision-making process (Larsen, 2003) and, instead, concentrating decision-making in small groups and/or having an 'executive' councillor (see Wollmann, 2009). While in England directly-elected mayors are an option for all local authorities, only a handful of local authorities have actually taken them up (see Copus, 2009; Wilson and Game, 2011 as well as Copus in this issue). Although Sweden's local government system has retained more features of the traditional government by committee model, it has turned to 'de-collectivized' and 'individualized' local leadership as well (Montin, 2005).

Since the 1990s, in pursuing remarkably simultaneous reform moves and driven by similarly perceived democracy and performance deficits of their respective local government systems, the continental European and Nordic countries have turned to reforming them by recasting their traditional local leadership forms. While the reform strategies embarked upon in the two Länder groups still diverge noticeably because of the specific (path-dependent) institutional, political and cultural features and traditions, they show considerable convergence and commonality in focusing on strengthening local political and administrative leadership.

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Call for papers: *Public Money & Management* theme on ‘International (public sector) accounting’

Editors: Ian Ball, Sheila Ellwood and Ian Carruthers

An important debate exists internationally as to how governments and public sector bodies should report their financial position and performance and the extent to which improved accounting is reflected in, or enables improved financial management. Macroeconomic accounting information using government financial statistics increasingly relies on microeconomic accounting. Good quality reporting systems for accounting at the micro level are demanded to assure debt and deficit data, increasingly important given the rejection of the ‘risk-free’ assumption for sovereign borrowing. These reporting systems take a number of forms including international accounting (IFRS); international public sector accounting (IPSAS) on an accrual or cash basis, and country-specific accounting frameworks. The conceptual underpinning of accounting systems such as IFRS and IPSAS are under revision and development. The adoption of accounting frameworks internationally varies: the UK, New Zealand and Australia have followed IFRS; several European countries follow IPSAS; developing countries may follow cash-based IPSAS; others, such as France, develop a country-specific approach.

Do these differing frameworks and how they are developing matter?

We welcome submissions that consider the implications and issues in international (public sector) accounting. PMM publishes main papers, new development and debate articles. Main papers (up to 5500 words including references) must meet high standards of intellectual argument, evidence and understanding of practice in public management. They are double-blind refereed by both an academic and a practitioner. New development articles (up to 3000 words) focus on the evolution of contemporary public service policy, management or practice and convey the potential or actual impact of change in a detached, informed and authoritative way. Debate articles (usually under 1000 words) are personal statements about topical issues, expressing an argument, supported by examples or evidence.

Contributions to the theme could consider:

- The role of accounting in analysing government investments or in assessing credit ratings.
- Aligning government financial statistics and accounting frameworks.
- Reporting financial performance and the sovereign debt crisis.
- Financial reporting and the bankruptcies of governments and states.
- Financial reporting and intergenerational equity.
- Reporting on a business model and the wider public perspective.
- The conflicts of a business model and public value.
- The distinctiveness of public sector reporting.
- Financial reporting, transparency and government manipulation.

This call for papers encompasses empirical research and theoretical expositions.

Papers, new development articles or debate articles (see <http://www.tandfonline.com/toc/rpmm20/current> for instructions for authors) should be sent to sheila.ellwood@bristol.ac.uk by 1 May 2015 (this is the final deadline) for consideration by the editorial team.