

Water remunicipalisation in Paris, France and Berlin, Germany

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A previous version of this report was completed in October 2019.¹ This present version takes into consideration recent conceptual advances in identifying the institutional trajectories of remunicipalisation.²

All errors are the responsibility of the leading author.

Introduction

Remunicipalisation – or the return of water services to full public ownership, management, and democratic control following a period of privatisation – is an emerging trend in urban governance and its international diffusion has accelerated significantly since the turn of the century, particularly in Europe. Globally, the number of cases where local government has remunicipalised water services increased from two in two countries in March 2000 to 235 cases in 37 countries by March 2015. Two countries accounted for the majority of cases: France with 94 cases and the US with 58 cases.³ The total number of cases has continued to grow since 2015,⁴ and it is significant that local authorities in France – the country that has come to symbolise water privatisation - are remunicipalising water services at a faster pace than anywhere else. The evidence is that water remunicipalisation is here to stay as it has become an established policy option.⁵

Despite the growing trend of water remunicipalisation, pressures to adopt Public-Private Partnerships (PPPs) and other forms of privatisation remain unabated due to austerity and the seductive power exerted over local authorities by old and new promises of private sector efficiency, finance, and technological innovation.⁶ However, decisions to remunicipalise are often made in response to the problems of private water management - from lack of infrastructure investments, to tariff hikes and environmental hazards.⁷ Thus the emergence of the remunicipalisation trend offers an opportunity to reassess the public vs. private debate from a fresh perspective – laying bare the limitations and potential of both the public sector and the private sector in the delivery of essential public services. For these reasons, it should come to no surprise that water remunicipalisation is increasingly attracting policy and scholarly interest. The literature has devoted greater attention to the policy process of remunicipalisation – including the motivations of governmental decisions to remunicipalise,⁸ social mobilisation and collective action as determinants of remunicipalisation,⁹ and the policy diffusion of remunicipalisation¹⁰ - than its policy outcome. Indeed, the impact of remunicipalisation on public service performance remains under-researched.¹¹ As a result, important questions remain unanswered regarding the extent to which remunicipalisation improves service quality, enhances investment, and fosters equality of access in comparison to private management. In other words, does remunicipalisation constitute progressive, emancipatory and sustainable change for water services and local communities?

To address the knowledge gap, this report provides a qualitative comparative analysis of two prominent cases of water remunicipalisation in Europe: Paris, France (water supply, 2010 to present); and Berlin, Germany (water supply and sanitation, 2013 to present).

Both cases look at the experience of water privatisation and subsequent remunicipalisation and the implications for sustainable water development. The objective is to identify similarities and differences between institutional trajectories characterised by the policy process and outcome of water remunicipalisation. The aim is to equip policy participants with evidence to inform decisions on remunicipalisation, at a time when privatisation is becoming increasingly controversial. The following section sets out key definitions and models of privatisation, the analytical framework and case study selection. Section 3 reviews the two case studies. Section 4 discusses the findings of the report, which ends with concluding remarks and recommendations in section 5.

Analytical Framework

Assessing the comparative advantages of remunicipalisation and privatisation in terms of fostering sustainable water development or other policy goals of service provision involves three steps. Firstly differentiating between models of provision, secondly defining sustainable water development and other policy goals of service provision, and thirdly providing a basis for the evaluation of comparative advantage. We first develop the analytical framework around these three dimensions to understand how changes in governance may affect the more or less sustainable trajectories of urban water services. This framework supports an analysis of whether the governance of remunicipalised water services has better prospects of enhancing sustainable water development than the governance of privatised water services. The rationale for case study selection is then elaborated and the format of the case studies is indicated.

Models of provision

To differentiate between models of provision, the report first defines water privatisation and remunicipalisation. It then proceeds by differentiating between types of remunicipalisation in light of the degree of rupture or continuity with the practices of privatised operations.

Water privatisation vs. remunicipalisation

Water privatisation is defined as the transfer to private companies of the right to streams of income generated from water service provision. This definition – according to which water privatisation encompasses outright divestiture as well as concessions, lease contracts and other PPPs – is consistent with that adopted by the World Bank in an influential study and is commonly used in the USA, the UK and elsewhere.¹² This definition is based on the transfer of rights to operational income irrespective of the extent to which the private sector owns shares in a water utility. It helps clarify that, as acknowledged by leading mainstream economists,¹³ all private companies pursue profit maximisation as their *raison d'être*. Therefore, the notion of water privatisation includes a variety of arrangements for the delivery of water services. Under outright divestiture the private sector owns the infrastructure, has the responsibility to provide for all operating and capital expenditure, and holds the right to appropriate all net gains. Under concession contracts, the private sector does not own the infrastructure but has the responsibility to provide for all operating and capital expenditure and holds the right to appropriate all net gains. Under lease contracts, the private sector does not own the infrastructure, nor does it have the responsibility to provide capital expenditure, but has the responsibility to provide for all operating expenditure and holds the right to appropriate the corresponding net gains. Under management contracts, the private sector has the sole responsibility to manage the utility and is remunerated on a fix basis or in a form aimed at providing performance incentives. In addition, it is possible to find hybrids between these contractual arrangements.¹⁴ Delegation has underpinned the French model of privatisation and had most international influence, whereas the UK has been home to the English model of water privatisation by divestiture.¹⁵

Water remunicipalisation has been defined as a form of reverse privatisation.¹⁶ In other words, remunicipalisation implies an end to privatisation and the return to full public ownership and control of a water utility, including its strategic and day-to-day management, subject to democratic governance. This means that the utility's decisions are ultimately subject to the approval and oversight of democratically elected representatives, complemented where applicable by participatory decision making.¹⁷ Democratic governance can, however, be exercised in different ways. While corporate governance in private enterprises is dictated by the profit maximisation imperative, under public ownership there is no such imperative.¹⁸ The behaviour of public enterprises may be influenced by

traditional public sector values like political accountability, regime stability, transparency and social cohesion or, conversely, by the pursuit of commercial objectives.¹⁹ There is, therefore, a need to differentiate between types of remunicipalisation.

Transformative vs. progressive remunicipalisation

The debate on the nature of remunicipalisation has identified two distinct institutional trajectories of remunicipalisation. On the one hand, transformative remunicipalisation marks a clear rupture with the governance and practice of privatisation. By inverting the priorities of water service provision from the pursuit of private gain to that of collective development, transformative remunicipalisation becomes an emancipatory economic, political and social project aimed at subverting neoliberal models of urban governance.²⁰ On the other hand, progressive remunicipalisation shows a greater degree of continuity with the governance and practice of privatisation, once that exception is made for the change from private to public ownership. Despite ownership change, progressive remunicipalisation is marked by incremental adjustments of the governance and practice of water service provision. As a result, New Public Management practices like the pursuit of profit are adapted to and continued under public ownership. By retaining a commercial orientation, progressive remunicipalisation contributes to reproduce New Public Management regimes in local government. Yet, gradual institutional changes that mitigate the extraction of net gains may result in incremental improvements in service delivery outcomes.²¹

Policy goals of water service provision

Sustainable water development

To define sustainable water development, the report adapts the World Commission on Environment and Development's definition of sustainability as "development that meets the needs of the present without compromising the ability of future generations to meet their own needs".²² Sustainable water development can therefore be defined as development that enables the reproduction and viability of water services while fostering the flourishing of human communities, in the short as well as in the long term. A comprehensive understanding of sustainable water development requires identifying the interdependencies between multilevel factors including financial, economic, technical, social, environmental and political factors.

Financial viability is the capacity of a water utility to finance the required operating and capital expenditure, whether through tariffs or other means. Economic sustainability depends among other things on the ability of a water utility to provide consumers with publicly acceptable value for money and maintain whole asset value. Technical sustainability consists in the ability of a water utility to maintain, renew and expand infrastructure and to upgrade operational systems so as to deliver quality services in the long-term. This can, for example, be measured in terms of leakage or customer satisfaction. Social sustainability pertains to the ability of a water utility to ensure the reproduction and viability of water services while enhancing social cohesion and inclusivity and expanding access to affordable water and sewerage. Environmental sustainability requires that water services are delivered in a way that prevents or minimises harm to the environment. Political sustainability comprises the ability of a system of internal or external governance to underpin the political and societal consensus that supports the viable and sustainable reproduction of that governance system. As an example of the complex interdependencies between these factors, it is possible to observe that leakage reduction is not only instrumental to the maintenance of infrastructure, but also to the financial viability of a water utility and the reduction of its environmental impact.²³ Also, labour does at the same time constitute an important part of a water utility's operational costs, fulfils an essential

role in the reproduction of organisational capabilities, contributes to the sustenance of communities, and is a policy participant through social dialogue and social mobilisation.²⁴

The human right to water

Defined as the right of everyone to sufficient, safe, acceptable, accessible and affordable water for personal and domestic uses, the human right to water is underpinned by principles whose joint fulfilment is conducive to emancipatory outcomes: availability, quality and safety, cultural acceptability, accessibility, affordability, equality, non-discrimination, access to information and transparency, participation, accountability and sustainability. Also, states have obligations to use the maximum available resources for the progressive realisation of the right to water and to avoid retrogression in the enjoyment of the right.²⁵

The realisation of the human right to water and the achievement of sustainable water development are therefore intertwined. While sustainability is one of the principles that underpin efforts to realise the human right to water, the realisation of this right is integral to the social component of sustainable water development as defined above.

Comparative advantage and institutional trajectories

The achievement of sustainable water development and the realisation of the human right to water involve assessing the comparative advantage of transformative remunicipalisation, progressive remunicipalisation and privatisation, as well as their respective governance. This comparative assessment must be premised on an evidence-based and sound methodological approach²⁶ rather than ideology. An example of a flawed assumption of the necessity and inevitability of policy change is the World Bank's pronouncement that 'there is no alternative' to water privatisation.²⁷ The two case studies reviewed in this report question such an assumption. This report offers an in-depth analysis of the impact that different models of provision have on sustainable water development and the human right to water.²⁸ This impact translates into the trajectories of different governance systems, as these trajectories may support or undermine the achievement of the policy goals of water service provision.²⁹ In sum, our methodological approach to assessing the comparative advantages of remunicipalisation and privatisation in a range of settings is historical because based on the observation of real-world experience, rather than being ideological or abstract.

The two prominent cases of remunicipalisation have been selected because of the opportunities they offer for policy learning. Both cases represent major European cities that, having experimented with different forms of water privatisation, have remunicipalised for several years and therefore enable a longer-term assessment of the outcome of remunicipalisation. The two cases allow for identifying some of the possible institutional trajectories of remunicipalisation and the factors that may influence the evolution of such trajectories. Each case study begins with a summary, followed by a brief technological and historical background to water service reform in the city. They go on to review the experience of privatisation, the rationale for the decision to remunicipalise, and the implementation process before detailing the outcomes of remunicipalisation and explaining how results were achieved and challenges overcome or otherwise met. In the discussion of findings lessons are drawn on the limitations and potentials of remunicipalised and privatised services in pursuit of the policy goals of water service provision. These lessons are identified through the comparative analysis of the case studies. This approach allows for the identification of policy implications relevant for the debate on whether and how to remunicipalise water services.

Empirical evidence

Transformative water remunicipalisation in Paris, France

Case study written by Emanuele Lobina

Case study summary

The remunicipalisation of water in Paris demonstrates the transformative power of public ownership when this is guided by political will to achieve progressive objectives. Remunicipalisation has radically changed water governance, prioritising the human right to water and sustainable development over profit maximisation. It has led to efficiency savings and reduced water tariffs, high investment levels, improved access to water, interventions for the environment, and strong democratic governance.

Introduction

The remunicipalisation of water supply on 1st January 2010 interrupted 25 years of private water management in Paris (population of 2.2 million)³⁰ and gained symbolic power in the eyes of local authorities in France and beyond. Not only because Paris is the capital city of France, the homeland of the globally dominant model of water privatisation. But also because the two major water multinationals – Veolia and Suez – have their headquarters in Paris and their subsidiaries had supplied water to the city’s dwellers until their contracts expired in December 2009 and were not renewed.³¹ The effect of this symbolic event has been to accelerate the international diffusion of water remunicipalisation. The number of remunicipalisation cases in France has trebled in the five years following the remunicipalisation of Paris compared to the previous ten years (with 63 cases from 2010 to early 2015), and doubled in high-income countries compared to the previous five years (with 104 cases from 2010 to early 2015).³²

If the achievements of Paris’s new public water operator demonstrate the transformative potential of remunicipalisation, the rationale for the decision to end the city’s experience with water privatisation is also of high relevance for decision makers. The reasons that induced the city of Paris to remunicipalise water supply include price hikes not justified by the investments made by private operators, lack of financial transparency under private management, difficulties in achieving sustainable development objectives through the renegotiation of private contracts, and the greater degree of public control and managerial flexibility that come with public ownership. These reasons are common determinants of water remunicipalisation across countries,³³ but they also reflect the experience of many more local governments that unsuccessfully attempt to renegotiate private contracts or remunicipalise water services.³⁴

Technical and historical background

In the last two centuries, the reform process of Paris’s water supply has been varied and complex. In the mid- 19th century, water supply was entrusted to an administrative department of the prefecture with the exception of billing which in 1860 was outsourced to Générale des Eaux (that would later become Veolia) with the award of a 50-year contract. This continued to be the case after the municipal government of Paris was established in 1975. In fact, a new 60-year contract for billing and metering was signed with Générale des Eaux in 1924 and it was only in 1981 that the management of water supply was handed over to an administrative department of the City of Paris. In 1984, when the contract with Générale des Eaux was due to expire, Gaullist mayor Jacques Chirac decided to privatise the entire water supply service.³⁵

A number of explanations have been offered for the 1984 decision to privatise water. The City of Paris justified its decision in light of the investments required to reduce leakage after years of neglect.³⁶ This justification rested on the results of a technical study conducted by a private consultancy,³⁷ which found that the pipeline network was in poor conditions due to the public undertaking's decision to privilege the production of greater volumes of water over the maintenance of the network.³⁸ The situation was compounded by the fact that the income generated by the water service was used to fund the budget of the municipal government; another frequent reason for the privatisation of water in France.³⁹ Several observers have, however, pointed to the political and personal connections between Chirac and Lyonnaise des Eaux executive Jérôme Monod as a reason for the decision to privatise the city's water supply service.⁴⁰ Others have also argued that the decision was a response to a workers' strike.⁴¹ This was not unusual at that time, as a number of French mayors decided to privatise water services as an anti-trade union measure.⁴²

Experience with privatisation

Governance

The City of Paris awarded two 25-year lease contracts, starting from 1st January 1985, respectively to Générale des Eaux for the right bank of the river Seine and Lyonnaise des Eaux (which would then become Suez) for the left bank. The two companies agreed that Générale des Eaux would continue to provide billing and metering for the entire city, acting as a subcontractor for Lyonnaise des Eaux in the left bank. Bulk water supply (including the abstraction, treatment and transportation of water) was delegated to the public-private joint venture SAGEP with the award of a 25-year concession contract on 31st January 1987. SAGEP was 72% owned by the City of Paris, 14% owned by Générale des Eaux and 14% owned by Lyonnaise des Eaux. In addition to bulk water supply, SAGEP was responsible for controlling the two private water supply operators on behalf of the city council.⁴³

The rationale for awarding two separate lease contracts was that of stimulating competition between the two private operators as their performance would thus be subject to a comparative evaluation.⁴⁴ However, the following limitations of the governance arrangements undermined that rationale. First, there was no competition for the market – the most diffuse form of competition in the water sector – because the two lease contracts were awarded without any call for tender.⁴⁵ Second, there was a lack of accountability due to the fact that the two private operators were – as a result of their joint ownership of SAGEP – at the same time regulator and regulated.⁴⁶ Third, the conflict of interest of the two private companies was compounded by the fact that their subsidiaries could take advantage of insider information when bidding for the works and supply contracts tendered by SAGEP.⁴⁷

Price hikes

Over the lifetime of the two lease contracts, from 1985 to 2009, the price of water in Paris increased by 174%, excluding taxes, corresponding to an annual increase of 6.95%. Not only did such a price increase outstrip inflation. Also, it was not justified by the investments made in that period.⁴⁸

Private profits

The lack of financial transparency and accountability and the excessive profits of the two private companies were criticised in a number of audits and reports. In a letter sent to the mayor of Paris in September 2000 the regional office of France's national audit body emphasised the lack of financial transparency characterising the Parisian operations of Générale des Eaux. The letter pointed to the opacity of the accounts which failed to disclose in full the financial results of water supply operations on the right bank of the river. In November 2002, the consultancy Service Public 2000 – which had been set up by the Association of French Mayors (AMF) and the French association of conceding authorities and public enterprises (FNCCR) to provide technical support to local authorities in the regulation of

private contractors⁴⁹ - found that the price charged by the two private operators in Paris was 25% to 30% higher than what was economically justified. In December 2003, a report by France's national audit body noted that there was a growing difference between the amount paid by consumers towards the constitution of provisions for infrastructure renewal – reserves aimed at guaranteeing the financing of renewal works – and the amount of works carried out for this purpose. While the effect of this practice was to inflate prices, the accounts of the two private operators grossly underestimated their profit margins. One mechanism used to underestimate the profits made by the two private operators was the subcontracting of works contracts to their own subsidiaries without calling for tenders. This practice enabled these subsidiaries to increase the remuneration of the respective mother companies, while the accounts of the two operators recorded a reduction in profits due to the costs of subcontracting.⁵⁰ The estimation of actual profits was made particularly difficult by the private companies' reluctance to provide accurate and complete financial data, despite repeated requests.⁵¹

Contractual renegotiation

The above revelations motivated the new Socialist mayor of Paris, Bertrand Delanoë, to renegotiate the contracts with the private companies to strengthen transparency and accountability. After months of negotiation, in December 2003 the responsibility to control the execution of the lease contracts and the procurement process was transferred from SAGEP to the City of Paris. For the first time since the award of the two lease contracts, an obligation was placed on the private companies to produce a maintenance plan and annual financial reports. The companies were also expected to pay duties for the occupation of public soil and the use of the pipeline network which had been previously paid by SAGEP and which would amount to €28 million for the remaining duration of the contracts. Despite these improvements, the two companies retained the right to subcontract works to their subsidiaries without having to call for tender – a practice which enabled them to inflate the price of works by up to 20%. Also, they could retain the renewal provisions that remained unspent at the end of the contract and treat them as profits, and this remained the case until French law changed in 2006. Finally, the accounts submitted by the companies would still follow the guidelines of the association of private service provider, thus falling short of the highest standards in terms of financial transparency. The upshot was that, although strengthened, the control of the municipal administration over the operations and finances of the lease contracts remained unsatisfactory.⁵²

Remunicipalisation process

The decision to remunicipalise

The political decision to remunicipalise water supply was made after a long deliberative process. In 2006, there was an internal consultation with the management and staff of SAGEP. In parallel, SAGEP conducted a study on the end of the two lease contracts and of SAGEP's own concession. A comparative study was conducted on French and European experiences with the organisation of water services. Also, a two year long comparative analysis of the possible organisational arrangements was carried out, with an emphasis on the relative merits of two scenarios: a) public management of bulk water supply and private management of water distribution under a single lease contract; and b) public management of an integrated water supply system, bringing together bulk supply and distribution. The study showed that while the first scenario would imply a smoother transition followed by long-term difficulties with the regulation of the private operator, the second scenario would imply a more difficult transition followed by a less problematic principal-agent relationship in the long term. The results of the studies were also subject to consultation with the Parisian Water Observatory, a forum for public participation set up by the City of Paris. Comforted by the results of these studies and consultations, the mayor announced that – if re-elected in March 2008 – his administration would have remunicipalised water supply. The mayor was re-elected and in November 2008 the city council decided not to

renew the two lease contracts that were due to expire in December 2009, and to transfer the responsibilities for both bulk water supply and water distribution to a unique public water operator.⁵³

The restructuring of the public-private concessionaire

In March 2007, the city council voted to instruct Veolia and Suez to sell their shares in SAGEP to the state-owned financial institution Caisse des Dépôts et Consignations, as a first step towards the remunicipalisation of bulk water supply. The sale of the private shares enabled the City of Paris to restructure SAGEP into a *régie à autonomie financière et personnalité morale*, an agency of the municipal government wholly-owned by the City and enjoying financial autonomy and distinct legal character. This form of public enterprise was chosen because it allowed for management flexibility together with public control and because it enabled the transfer of staff from the two private operators, which was governed by private law, to the new *régie*. On 1st January 2009, SAGEP was transformed into the new *régie* Eau de Paris which started to manage bulk water supply in June 2009. Also in 2009, the activities of the public laboratory for the control of water quality and for research and development CRECEP were transferred to Eau de Paris. On 1st January 2010, the day after the expiry of the two lease contracts, the staff of the two private water operators was transferred to Eau de Paris and this started to manage both bulk water supply and water distribution.⁵⁴

Difficulties with the transition from private to public management

As predicted by the preparatory studies, the transition from private to public management proved difficult. In particular, there have been difficulties in three areas: the harmonisation of employment conditions for the former employees of the private operators; the incompatibility of IT systems for management, metering and billing; and, the passage from private to public accounting. After tense negotiations with trade unions, the harmonisation of pay and working conditions for all workers has led to a yearly salary increases of 1.5% to 2.5% over and above the 2% increase indicated in the service contract with the City. On the other hand, not all the employees of the two private operators were transferred to the new *régie* on 1st January 2010, leading to a loss of local knowledge particularly on the operation of IT systems. Other transitional difficulties included the incompatibility of IT systems used by the two private operators for management, metering and billing, which could only be operated by the two private operators and which forced Eau de Paris to outsource these ancillary services to Veolia and Suez in order to ensure service continuity. Finally, the need to familiarise with a new public accounting system has led to delays in the payment of suppliers that have resulted in penalties until 2014. In 2017, a report of France's Regional Court of Auditors observed that Eau de Paris had managed to overcome all transitional difficulties.⁵⁵

Remunicipalisation outcomes

Governance

The regulatory relationship between the City of Paris and Eau de Paris is governed by a 6-year service contract that sets objectives inspired by the principles of the human right to water and sustainable development. These objectives include guaranteeing access to water, ensuring efficient and effective operations, and investing for the long-term development of the water system.⁵⁶ Transparency, accountability and public participation in decision-making have been considerably strengthened compared to private governance arrangements in place until 2009. As of February 2019, the Board of Directors of Eau de Paris was composed of 18 members entitled to vote – of which, 13 city councillors, two workers' representatives, and three civil society representatives. In addition, two experts sat as observers or consultative members of the Board of Directors.⁵⁷ Another participatory mechanism is represented by the Parisian Water Observatory, a forum open to all stakeholders that aims to serve as a critical friend to the City and Eau de Paris in relation to the formulation and implementation of water policy.⁵⁸ In June 2017, on occasion of Public Services day, Eau de Paris was awarded the United

Nations Public Service Award. This award, which aims at rewarding excellence in the public sector, was given in recognition of Eau de Paris's "efforts to promote transparency, accountability and integrity in public service".⁵⁹

Efficiency savings

In the first year of operations the new public municipal operator Eau de Paris made efficiency savings of €35 million, which enabled the public enterprise to reduce tariffs by 8% in July 2011. These efficiency savings were made despite the transitional difficulties experienced by the new *régie* and thanks to a number of factors that distinguish public from private operations: a) the fact that public enterprises are not subject to paying corporate tax; b) the fact that Eau de Paris does not pay dividends to shareholders and that all profits made by Eau de Paris are reinvested in the development of the system; c) the fact that Eau de Paris is subject to public procurement rules and that competitive tenders are called for all works and supply contracts; and, d) the rationalisation and economies of scale and scope that come with the integration of bulk water supply and water distribution services.⁶⁰ In the following years, there have been minor adjustments in the price of water so that the overall price reduction from 2010 to 2017 has been of 2.6%.⁶¹ This is not insignificant, considering that the transaction costs of remunicipalisation exceeded €30 million⁶² and that, due to decreasing water consumption, the sales of Eau de Paris have fallen by 10.4% in the period 2010-2015.⁶³ Indeed, this 2.6% price reduction from 2010 to 2017 under public management contrasts with a 174% tariff increase under private operation from 1985 to 2009.⁶⁴

Self-financing

Eau de Paris enjoys a low level of indebtedness and a high level of self-financing, that is the capacity to finance investments using the revenues of the enterprise. If Eau de Paris' total indebtedness amounted to €77 million in 2011, this had decreased to €66 million in 2015.⁶⁵ In 2018, Eau de Paris was in a position to extinguish all its debts in less than one year, much faster than its own objective of less than 7 years. The average self-financing ratio for the period 2017-2018 was around 100%, which is an indicator of strong financial sustainability.⁶⁶

Investment levels

The operational performance of Eau de Paris initially suffered because of the difficulties experienced with the transition from private to public management,⁶⁷ notably due to a 30% increase in operating costs between 2010 and 2015.⁶⁸ Once these difficulties were overcome, Eau de Paris managed to achieve high investment levels that kept increasing throughout the years. From 2010 to 2017, Eau de Paris invested an aggregate €543.28 million for a yearly average of €67.91 million⁶⁹. From 2015 to 2018, the yearly average of investments carried out by Eau de Paris was even higher, at €76.8 million.⁷⁰

Infrastructure renewal

Eau de Paris has continuously improved its performance in terms of infrastructure renewal, an area of performance which is important for the sustainable development of ageing water systems like that of Paris. While in 2010 the rate of water pipeline renewal was 0.13%, this indicator grew to 0.25% in 2013⁷¹ and 0.85% in 2018.⁷² It should be noted that the rate of renewal achieved by Eau de Paris in 2018 is in line with the highest international standards.⁷³

Leakage

Due to a number of reasons – which include the ageing and thus inaccuracy of many meters, as well as the interruption in 2014 of interventions to detect leakage, due to the discovery of asbestos in the pipes – leakage ratios have fluctuated from around 8% between 2010 and 2013 to around 10% between 2015 and 2018. The introduction of acoustic sensing techniques in late 2017 has enabled to

significantly increase the number of leaks detected.⁷⁴ The introduction of meter renewal programme in 2019 is expected to improve leakage ratios further.⁷⁵ These figures require some context. First, Eau de Paris has adopted a more stringent method for calculating leaks since beginning operations, so that the comparison of leakage with the previous private operations has been complicated.⁷⁶ Second, a leakage ratio of 10% is very good by international standards⁷⁷ and, for example, amounts to half the national average in both France and England.⁷⁸

Customer services

In July 2011, Eau de Paris in-sourced customers services launching a range of free services offering real-time information to consumers, including alerts on leaks and over-consumption. These services are, together with a single entry-point online centre for answering customers' queries, behind a high customer satisfaction rate ranging between 96% and 90% in the period 2012-2018, and the award to Eau de Paris of the Best Customer Service of the Year prize for 7 consecutive years.⁷⁹

Access to water

Eau de Paris has made important interventions to improve access to water. In 2010, it has increased its contribution to the Housing Solidarity Fund – a fund aimed at supporting vulnerable consumers in difficulty with the payment of water bills – to €250,000 (the aggregate annual contribution previously made by the two private water operators was €175,000). Eau de Paris then doubled its contribution to €500,000 and kept donating the same amount since then.⁸⁰ In other words, Eau de Paris nearly trebled the financial resources devoted to improving affordability and access for vulnerable consumers, relative to the contributions of the two private operators. In 2012, it established a new fund aimed at helping individual customers. Its policy forbids disconnecting consumers for non-payment, even in squats. It has improved on-street access to water by operating a network of free-access fountains and providing homeless people with water by distributing flasks and jerrycans along with maps of water access points.⁸¹ In an effort to facilitate the access to water for all, including the homeless, Eau de Paris has helped the City of Paris to increase the number of free-access fountains available to the public from 127 in 2010 to 196 in 2018, of which 87 kept functioning in sub-zero temperatures. The construction of these fountains is financed by the municipal government and Eau de Paris is responsible for their operation and maintenance, which is financed through tariffs. The decision to construct the new fountains has been made as part of the city's participatory budgeting. Since January 2018, the City of Paris has given Eau de Paris the responsibility to operate and manage 919 free-access water fountains in the city's parks and green areas.⁸²

Interventions for the environment

Eau de Paris has undertaken a program of acquisition of agricultural land to prevent the use of pesticides and other substances that may pollute groundwater. Since 2010, this activity has intensified compared to the practice of SAGEP under mixed ownership. Eau de Paris also enters into partnerships with farmers to ensure that their lands are devoted to pasture or that they use sustainable growing practices. These interventions have a positive environmental impact and reduce the cost of treating water.⁸³

In 2016, Eau de Paris achieved a 12% reduction in the consumption of electricity and a 15% reduction in greenhouse gas emissions relative to 2004. Also in 2016, 95% of the electricity it consumed was of renewable origin. Finally, Eau de Paris set up a geothermal power plant that uses groundwater heat to produce 75% of the energy needed by a Parisian district.⁸⁴

Sustainability

Water remunicipalisation in Paris has fostered sustainable water development at the financial, economic, technical, political, social and environmental levels. It has produced transformative results at various levels thanks to a policy that has placed the interests of consumers, the environment and the local community before technical and commercial considerations.

Financial sustainability

Remunicipalisation has enabled Eau de Paris to enjoy low indebtedness and high self-financing ratios, and to achieve high investment levels.

Economic sustainability

Eau de Paris has increased efficiency and reduced prices, inverting the 25-year trend of above inflation price increases under private management.

Technical sustainability

Despite transitional difficulties with the integration of IT systems, Eau de Paris has achieved levels of excellence for customer satisfaction, low leakage levels and a high rate of pipeline renewal.

Political sustainability

Eau de Paris's strong democratic governance and a variety of mechanisms promoting transparency, accountability and integrity, have attracted international recognition.

Social sustainability

Inspired by the principle of the human right to water, Eau de Paris has multiplied efforts to guarantee access to water compared to those of the preceding private operators. Eau de Paris' efforts include the reduction of prices, payment of subsidies to a solidarity fund, and operation of a growing network of public fountains.

Environmental sustainability

Inspired by the principle of sustainable development, Eau de Paris has intensified efforts to prevent groundwater pollution and reduce the need for water treatment. It has also produced important efforts to reduce greenhouse gas emissions in the city of Paris.

Progressive remunicipalisation in Berlin, Germany

Case study written by Vera Wegmann, Emanuele Lobina and Katrin Nicke

Case study summary

The case of Berlin (population of 3.8 million)⁸⁵ shows that remunicipalisation is not always transformative. However, even moderate changes in governance can lead to progress towards the realisation of the human right to water and enhancement of sustainable water development, compared to what is the case under privatisation. Remunicipalisation in Berlin has facilitated the implementation of price cuts imposed by a federal regulator and supported the City's decision to enhance the realisation of the human right to water, although investment levels remain similar to those under privatisation.

Introduction

Reunification costs were stretching Berlin's budget in the 1990s. In line with the neoliberal consensus of the time, privatisation was the quick and easy answer for both financial recovery and the provision of restructured public services within financial constraints. After privatising other public services Berlin began the process to privatise its water services in the mid-1990s.⁸⁶

On the 29th of October 1999 Berlin signed 30-year contracts for the privatisation of Berliner Wasser Betriebe (BWB), Berlin's water and sewage utility, with RWE and Vivendi (now Veolia) also buying 49.9% of BWB for €1.8 billion and receiving a share of 24.95% each.⁸⁷ The privatisation turned out to be highly controversial. The explosion of water prices after 2004 from 2003 to 2006 led to public resistance, which eventually led to the remunicipalisation of Berlin's water services in 2013.

Technical and historical background

Preparations for the privatization of BWB began with its commercialisation in 1994 when the Senate of the city-state of Berlin decided to restructure the public company.⁸⁸ This was done in order to help pay off the city's debts and turn the BWB into a profit making company by operating international contracts,⁸⁹ for example buying shares of Budapest Sewage Works in 1997. This process was facilitated by the "Berliner Betriebegesetz" that, adopted in 1994, promoted greater independence in the management of public enterprises through a reduction in political influence and control. The BWB developed a broad portfolio with more than 20 partnerships, many of which proved to be unprofitable and represented expensive, unsuccessful investments for the BWB and thus also for its guarantor the city of Berlin. Yet even though the failures became obvious, Berlin's government did not interfere, for instance, by reducing BWB's operations back to its core business and generating a moderate revenue for Berlin's budget.⁹⁰ Further, the senate decided to privatise the BWB by selling part of its capital to the private sector. Following the full privatizations of its energy companies (Bewag and Gasag) in 1997 and 1998, the BWB was the only public entity left that could be privatised to meet budget deficits. This decision was presented as 'a necessity in the face of rising city debts' and as an opportunity to make BWB an important commercial player in the global water market.⁹¹ Most political parties in the Senate accepted the privatisation of the BWB as inevitable.⁹² In 1999 the consortium Vivendi/RWE/Allianz were awarded to take over 49.9% of the shares of BWB. The purchase price amounted to 3.1 billion Deutsche Mark (approximately 1.7 billion Euro) and was the highest offer. The contract validity was 30 years.⁹³

Trade unions and labour

The workers of Berlin's waterworks, Berliner Wasser Betriebe (BWB), with the support of their trade union, the Public Services Union (ÖTV), which later merged and was renamed ver.di, contested the

water privatisation plans. First the union proposed an alternative solution that would fulfil the senate's expectation to generate DM 2 billion (€ 1.06 billion) in revenues. The union proposal was very quickly rejected by the Senate, probably the most visible sign that the Senate's goal had always been BWB privatization in itself, not generation of funds to balance the city budget (the official narrative). The ÖTV then demanded that in case of privatization, management control had to remain independent of external (non-Berlin) water utilities, but this was also rejected.⁹⁴ However, union resistance led to a strong collective agreement, which meant that the pay and working conditions remained the same after the privatisation and the employees had their employment guaranteed until 2014, in other words no involuntary redundancies could be made.⁹⁵ Unlike other cases of privatisation the BWB did not hire new employees on different contracts when employees left voluntarily or retired leading to a two tier workforce⁹⁶

Experience with privatisation

Governance

The contract - called the consortium agreement - between the private companies and Berlin, was a key governance mechanism in the privatised BWB. The consortium agreement outlined a) the shared aims of the contract partners b) the business structure c) the appointment of management, d) the objectives of the cooperation and arrangements for interruptions, placement of the stock, contract questions of guarantee, merger control and implementation. All other contracts and agreements were annexes to the consortium agreement.⁹⁷ The consortium agreement also agreed that: i) within 10 years 2.5 billion Euro, equivalent to about 250 million Euro per year, must be used for investment;⁹⁸ ii) the tariffs would remain stable until 2003; and, iii) enforced redundancies were excluded until 2014. Significantly the consortium agreement included a guaranteed return on equity for the private companies. This varied on a yearly basis, as it amounted to the sum of the average of German government bond yields and a premium of 2%, and in some years totalled around 8%.⁹⁹ If the tariffs could not be increased by the Senate, the profits for the investors were guaranteed by the State budget.¹⁰⁰ Most notably for transparency, the contracts remained confidential and were not available to the public.¹⁰¹ Not even the Parliament was able to view the full contract.¹⁰²

Price hikes

The BWB financed itself exclusively from tariffs.¹⁰³ As mentioned above the consortium agreement meant that until 2003 it was agreed that water charges to the consumer tariffs would remain stable. However, immediately after 2003 the tariffs increased drastically. Between 2003 and 2006 alone water prices rose by nearly 24%.¹⁰⁴

Private profits

The private investors made good business in Berlin. Between 2001 and 2011 the private shareholders received a profit transfer at a total of 1,142.6 million Euro. This means that just within 10 years they recovered 67.21% of the capital they used to buy their shares in 1999 (which was about 1.7 billion Euro). At the same time the city of Berlin received only 778.1 million Euro because Berlin has renounced about 365 million Euro of the profits it was entitled to receive during this period.¹⁰⁵ The unequal distribution of dividends between the private and public shareholders was due to the fact that in 1999 the Berlin Constitutional Court had ruled that the formula for the calculation of return on equity was unconstitutional, effectively lowering the return on equity. Because the City of Berlin was contractually committed to guarantee the remuneration of the private shareholders, it agreed to waive its claim to part of 50.1% of profits to compensate the private shareholders for the loss suffered as a result of the 1999 ruling. In 2003, a new tariff formula was introduced which resulted in consistent price increases, thus explaining the explosion of tariffs from 2003 to 2006.¹⁰⁶

Remunicipalisation process

Regulatory initiatives

The drastic rise in water charges led to political opposition as well as a more pragmatic recognition of policy and regulatory failure. Consequently, re-regulation efforts were made. In 2006 new rules for the Berliner Betriebesgesetz (the Berlin company law) were agreed that would increase governmental and parliamentary oversight of public companies.¹⁰⁷ A year later, in 2007, an amendment of the freedom of information act and a court decision of the Higher Administrative Court Berlin-Brandenburg (OVG), ruled that the general basis of the calculation of the water and wastewater disposal tariffs had to be publicly available.¹⁰⁸ These new regulations can be seen as the first challenge to the confidential arrangements that guaranteed the profits of the private companies and underpinned higher prices.

Social mobilisation

The rising water prices and the opaque contracts with the private providers caused public anger and the privatization of water became a topical issue in Berlin. In that context, the anti-privatization movement Attac initiated a campaign for the remunicipalisation of water. In May 2006, the Berliner Wassertisch (water table) was launched, a grass roots campaign to take Berlin's water back under public ownership. Interestingly rather than demanding direct remunicipalisation it first demanded transparency.

The initial demands of the Wassertisch was that the confidential contracts of the privatisation deal would be made public and there would be clarity on how the water tariffs were calculated and how much profits the private companies, REW and Veolia, were making from the water services in Berlin. The campaign mobilised a petition (Volksbegehren) demanding full transparency on the consortium agreement. According to German law if a Volksbegehren has collected the signatures of 7% of those eligible to vote within four months, the city is obliged to hold a referendum (Volksentscheid).¹⁰⁹ Within a few months 660,000 signatures were collected, well above the 170,000 needed to hold a referendum. One strategy of the Wassertisch was to use existing local community networks to recruit "signature collectors", which produced the large number of signatures swiftly, but also raised public consciousness about the failure of privatized water¹¹⁰. The city of Berlin initiated a court case to preempt the Volksbegehren by arguing that the companies had a right to commercial confidentiality and that this had priority over the right of Berlin's citizens to be informed. However, the Senate lost the court case and the Volksbegehren was successful.

In the run up to the referendum, October 2010, the left-wing Berlin newspaper, die Tageszeitung, published the confidential contracts.¹¹¹ The referendum was held in February 2011 and 98.2% voted in favour of the proposition "Berliners want their water back". Although, technically, the focus of the referendum was on ensuring the legal disclosure of all contracts, the Wassertisch had associated the referendum campaign with demands for the remunicipalisation of water services.¹¹² The turn-out was 27.5% so just above the 25% needed to make the referendum valid. In total 666,235 Berliners voted for transparency and remunicipalisation - the first successful referendum in Berlin.¹¹³

Corporate resistance

In response to the referendum, Veolia and RWE filed a lawsuit in the constitutional court against the publication of the contract that had been required by the referendum.¹¹⁴ However only a few months later RWE decided to withdraw from the water market to concentrate on energy and sold its shares in BWB in May 2012 to Berlin. In response, Veolia took RWE to court to prevent it from selling its shares to Berlin.¹¹⁵ However, this was rejected by the provincial court in Berlin (Landgericht Berlin)¹¹⁶ and consequently Veolia started to negotiate with Berlin over remunicipalisation.

The transaction costs of remunicipalisation

In 2012 Berlin brought back RWE's 24.95% shares of the BWB, for €618 million. In December 2013 it brought back Veolia's 24.95% for €590 million. The acquisition took effect retroactively from January 2013. Through acquiring Veolia's shares the BWB became 100% publicly owned;¹¹⁷ the total cost of remunicipalisation was €1.208 billion. The buy-backs are financed by a 30-year loan that will have to be repaid by water consumers.¹¹⁸ It should be noted, however, that these transaction costs of remunicipalisation should be primarily attributed to the 1999 privatisation.¹¹⁹ This is a helpful reminder that it is better not to privatise in the first place than having to remunicipalise in the (near) future, as so often happens.¹²⁰

Remunicipalisation outcomes

Governance

The Berlin Senate has continued to manage the remunicipalised BWB as a profit-oriented holding. For example, it has rejected the Berliner Wassertisch's calls for introducing advanced forms of public participation and, instead, established a consultative consumer council much in line with the practice of private water operators whose preferred form of public participation is mere consultation.¹²¹ The Berliner Wassertisch opposed all this and launched a new demand "first remunicipalization - then democratization!" and drafted a "Berlin Water Charter" with concrete proposals for a transparent, socially fair and environmentally sustainable BWB in open consultation with Berlin's population.¹²²

Nonetheless, the passage to full public ownership has removed the profit maximisation imperative that is characteristic of Public-Private Partnerships and other forms of privatisation. This has enabled BWB to reduce its rate of return to 5.1% as a way of financing the price cuts imposed by the Federal Cartel Office (see section below). By removing the profit maximisation imperative, remunicipalisation has also created the governance conditions for a less confrontational approach with the Federal Cartel Office, thus facilitating the reduction in prices. The significance of this approach to profit and price reduction should not be underestimated as multinational companies like Veolia have proved capable of resisting regulatory pressure, not only in developing but also in developed countries. More precisely, multinationals have often influenced local decision making processes by taking court cases or threatening litigation to obtain multimillion compensation. They have also taken extra-legal initiatives such as suspending the payment of concession fees and, in one case, even temporarily suspending service provision to exert pressure on local authorities. The result of these initiatives has often been to reverse regulatory decisions that negatively affected their commercial interests.¹²³

On the 22nd of March 2018, under the initiative of the Berliner Wassertisch, Berlin joined other cities across the world in becoming a 'Blue Community' following the introduction of the Canadian Blue Community project through the city's Senate.¹²⁴ The declaration recognises water as a human right, pledges to keep the water services in public ownership and promotes the drinking of tap water over bottled water. Becoming a blue community Berlin signalled support for the international movement for public water ownership.¹²⁵ It also led to the launch of a public investment programme for the construction of drinking water fountains to expand access to water. It remains to be seen, however, whether this development will lead to more transformative changes in governance.

Regulation and efficiency savings

Prior to the referendum and before the remunicipalisation the left-wing Senator Harald Wolf (Die Linke) called on the Bundeskartellamt (Germany's Federal Cartel Office) in March 2010 to investigate Berlin's water prices. He did this as the public concern for the rising water prices became more pressing. Harald Wolf's initiative to get the cartel authorities involved reveals a lot about the

institutional set up of the BWB. Despite sitting on the board of managers that controlled the BWB Harald Wolf had no say in setting prices. When, in March 2011 the Federal Cartel Office suggested a price reduction of 16% the BWB appealed against the decision. However, the prospect of price reductions enforced by the cartel office made Berlin's water sector much less attractive to private companies. The prospect of reduced profitability combined with the public pressure damaging the companies' image is likely to have motivated RWE's decision to sell its shares back to BWB. As mentioned above, Veolia was far less keen to sell and even unsuccessfully took RWE to court to prevent Berlin's acquisition of RWE's shares.

Eventually, after the remunicipalisation, the cartel office and Berlin reached a settlement that tackled the excessive water prices. As a result, BWB had to reduce water prices by an average of 17% from 2012. The price reduction corresponded to savings of more than €440 million for Berlin water users in the period between 2012 and 2018, as compared to 2011, demonstrating the extent to which water prices had been inflated by the privatised utility. In its investigations, the Federal Cartel Office compared water prices in Berlin with those in Hamburg, Munich and Cologne – where water is supplied by utilities operating under similar technical conditions to those in Berlin – and found that there was no justification for the high prices in Berlin.¹²⁶

Investment

While agreed investment of 2.5 billion within 10 years was pledged during the part-privatisation, it has been argued that this was significantly less than necessary. By the time of the remunicipalisation Berlin's water network suffered from 'severe under-investment'; the BWB estimated that 23% of the sewerage system was in need of rehabilitation measures, although at that point it had assessed only over half of the system.¹²⁷ Consequently, the BWB committed to double the investment needed for the rehabilitation measures to €94 Million annually in the period from 2013-2020 – prior to remunicipalisation, only €47 Million had been spent on maintenance.¹²⁸ However, there seems to be little improvement when comparing the amounts actually invested in the 5 years after remunicipalisation (2013-2017) with the investments made in the 5 years prior to remunicipalisation (2008-2012).¹²⁹

Access to water

In May 2018, after becoming a "Blue Community", the City of Berlin entered into an agreement with BWB for the installation of 100 free-access drinking water wells and water dispensers in 2018-2019, which the City was to finance to the tune of €1 million.¹³⁰ It remains to be seen whether the City's decision to become a "Blue Community" will lead to the prioritisation of expanding access to water over the commercial objectives of the publicly-owned BWB.

Employment

For the BWB's workers the strong collective agreement they achieved through their struggle in the 1990s remained valid. However, while there had been no redundancies under privatisation workers leaving had not been replaced. This led to a decrease of employment levels of nearly 35%, from 6012 workers in 1999 to 4475 in 2010 (in full time equivalents).¹³¹ Following remunicipalisation, workers were reported to feel more secure in their jobs.¹³²

Sustainability

In the case of Berlin, remunicipalisation has fostered sustainable water development at the economic, political and social levels. There is however continuity with the privatisation era, for example in the areas of financial and technical sustainability.

Financial sustainability

Remunicipalisation has brought little change in terms of financial sustainability as the high costs of contract termination are limiting BWB's capacity to finance investments above pre-2013 levels.

Economic sustainability

The remunicipalised BWB has, under regulatory pressure, increased efficiency and left investments stable compared to what happened under privatisation, providing better value for money and increasing whole asset value.

Technical sustainability

Investments have remained stable at pre-remunicipalisation levels as the costs of contract termination have been passed on to consumers, tariffs have been cut and dividends are still being paid to the City.

Political sustainability

It remains to be seen whether Berlin's recognition as a "Blue City" will lead to a strengthening of democratic governance beyond declarations of intent.

Social sustainability

Remunicipalisation has induced BWB to cease the conflict with the Federal Cartel Office and to comply with its requests for a reduction in tariffs. BWB has also facilitated access to water by participating in a municipal programme for the construction of free-access water fountains.

Discussion of findings

The analysis of these two prominent cases of water remunicipalisation – which implies both a comparative analysis of water remunicipalisation and privatisation, and of transformative and progressive remunicipalisation - reveals the following findings.

Privatisation vs. sustainable water development/human right to water

Our results provide additional evidence that privatisation is inimical to sustainable water development and the human right to water. This is so due to the rigidity of private water governance, which prioritises profit maximisation over and above economic, social and environmental considerations. This rigidity can be observed in dozens of other cases in high-income as well as low- and middle-income countries, independently of the type of privatisation and form of regulation adopted.¹³³

Remunicipalisation debunks the myths of the public sector

Whether transformative or progressive, the experience with remunicipalisation debunks the myths of the public sector that have contributed to the diffusion of water privatisation in the last 30 years. More precisely, the evidence on the policy process and policy outcome of remunicipalisation shows that, contrary to conventional wisdom:

1. **The public sector is not necessarily corrupt.** Indeed, the evidence of remunicipalisation shows that the public sector is far more transparent, accountable and open to participatory governance than the private sector. As shown by the case of Berlin among others,¹³⁴ privatisation favours the secrecy of commercial confidentiality as a way of fostering profit-maximisation.
2. **The public sector is not necessarily inefficient.** Indeed, the evidence of remunicipalisation shows that the public sector is capable of delivering quality water services at a lower cost than the private sector. This is because abandoning the profit maximisation imperative of the private sector enables to reinvest profits for the development of the service.
3. **The public sector does not lack managerial capacity.** Indeed, the evidence of remunicipalisation shows that public sector managers are capable of delivering quality water services while solving the problems inherited from privatisation. These problems may include the costs of terminating privatised contracts and the difficulties of transitioning from a fragmented private service to an integrated public service. These problems may also be compounded by new taxes or other payments imposed by national and local governments.
4. **The public sector does not lack access to finance.** Indeed, the evidence of remunicipalisation shows that the public sector is capable of accessing investment finance at a lower cost than the private sector. This is because abandoning the profit maximisation imperative of the private sector enables to enhance financial sustainability. This is done by strengthening self-financing, lowering indebtedness, and guaranteeing debt repayment with tariffs and taxation.
5. **The public sector is not unsustainable.** The conventional wisdom is that the public sector is inflexible, bureaucratic and favours environmentally unsustainable approaches to infrastructure development. While these problems might have been more severe 40 to 50 years ago,¹³⁵ the evidence of remunicipalisation shows that today's public sector is at the forefront of meeting the social and environmental challenges of the 21st century, such as the growing levels of water poverty that undermine the human right to water and the climate change emergency. This has increasingly led to the recognition that the public ownership, not

only of water but also energy services, has to be integral to attempts to tackle climate change.¹³⁶

Transformative remunicipalisation is possible

Water remunicipalisation offers the possibility to reverse the unsustainable trajectory of privatisation and reorient water governance towards sustainable development outcomes and the realisation of the human right to water. As shown by the case of Paris, this change in institutional trajectory and the achievement of emancipatory and progressive outcomes rest on the transformative power of remunicipalisation. There are a number of transformations in governance that may take place with remunicipalisation, whereby change from private to public ownership should be seen as an enabling factor and not an end in itself. One important transformation is the change in the values that inform governance and that lead to a reinterpretation of the purpose and function of water service delivery, from one based on the extraction of commercial gain to one which sees water service provision as instrumental to the flourishing of human communities. It is this transformation that explains how remunicipalisation may represent a paradigm shift and may induce public operators to outperform their private predecessors in terms of promoting virtually all dimensions of sustainable water development.

Democratic governance makes remunicipalisation transformative

If the transformative power of remunicipalisation is underpinned by the enabling effect of public ownership, the process of achieving emancipatory and progressive outcomes may be strengthened by democratic and participatory governance. The case of Paris suggests that the transformative power of remunicipalisation is more likely to be sustained when political will is aligned to civil society's expectations of the role of public services in supporting community development. In this case, in fact, the decision to remunicipalise came from the municipal authority after extensive consultations with workers and civic organisations. It was also sanctioned by the electorate in the 2008 municipal elections and participatory mechanisms were established to facilitate the continuation of a dialogue between the municipal government, the public enterprise and civil society.

What makes remunicipalisation transformative is the insurgent leadership of democratic and diffuse governance, whereby leadership in promoting and taking radical initiatives to prioritise community development (both social and environmental) over market development may come from political actors such as municipal governments as well as social movements, civic organisations and citizens. By contrast, what makes remunicipalisation progressive is the inertia of governance mechanisms and managerial practices that may survive in the passage from private to public ownership. This survival can be explained by a combination of factors, including the interests of local governments and public managers that may persist despite remunicipalisation and a lack of insurgent leadership.

Progressive remunicipalisation is desirable relative to privatisation

The case of Berlin shows that remunicipalisation is not always transformative. When there is continuity between decision makers' approach to organising and regulating water services respectively under remunicipalisation and privatisation, progressive remunicipalisation may bring moderate change in governance and practice. Nonetheless, even that moderate change can lead to some progress towards the realisation of the human right to water and enhancement of sustainable water development, compared to what has been the case under privatisation. In fact, the removal of

the profit maximisation imperative associated with privatisation makes the governance of remunicipalised water more flexible when it comes to allocating resources and prioritising efforts for the achievement of developmental objectives. This flexibility offers greater opportunities for actors ranging from regulatory authorities to social movements to redirect institutional trajectories towards the achievement of sustainable development objectives.

Trade unions, workers and water remunicipalisation

Trade unions and workers are in many cases apprehensive due to the uncertainty that remunicipalisation brings (like any other change in ownership).¹³⁷ This apprehension is understandable. The evidence from our case studies shows that the nature of the relationship between trade unions and the new public owners and managers very much depends on the local context and that, as a result, working conditions may change or remain substantially unvaried without a clearly emerging pattern. There is, however, a question left open about the role that trade unions and workers may play in the face of institutional change and uncertainty. One possibility is that trade unions may build new political and social alliances that enable them to participate in insurgent leadership and contribute to direct the institutional trajectory of remunicipalised water services towards progressive outcomes.¹³⁸ Whether this is a concrete possibility or not depends on the quality of labour relations and social dialogue in each city.

The costs of remunicipalisation are an investment for the future

The possibility of achieving emancipatory and progressive outcomes in the long term means that the short-term difficulties with transitioning from private to public ownership and the transaction costs of remunicipalisation should be assessed from a long-term perspective. In the case of Paris, the transaction costs of remunicipalisation were modest and even the transitional difficulties, albeit not insignificant, were overcome after three years of public operations. In the case of Berlin, the transaction costs of remunicipalisation were more substantial as a result of unilateral termination. Even in this case, however, the savings enjoyed by consumers thanks to a 7-year reduction in prices amounted to more than a third of these transaction costs.

Conclusions

It is possible to offer the following conclusions.

1. Better not to privatise than having to remunicipalise and face the costs of contract termination.
2. The experience with remunicipalisation debunks the myths of the public sector that have contributed to the diffusion of water privatisation in the last 30 years.
3. The transformative power of remunicipalisation offers the possibility to better achieve sustainable water development objectives.
4. The transformative power of remunicipalisation is realised when political will is supported by democratic and participatory governance to deliver insurgent leadership. Trade unions and workers can contribute to strengthening participatory governance and insurgent leadership.
5. Remunicipalisation is not always transformative as there may be continuity in the regulatory approach of decision makers under privatisation and remunicipalisation.
6. Even progressive remunicipalisation may lead to more sustainable outcomes relative to privatisation.
7. When planning for remunicipalisation, the possible difficulties with transitioning from private to public ownership and the transaction costs of remunicipalisation should be seen in a long-term perspective and thus seen as an investment in the future of next generations.

Appendix

List of interviews

| Interview number | Typology of actor | Date of interview |
|------------------|-----------------------------|--------------------|
| 1 | Utility manager (Paris) | 4 April 2018 |
| 2 | Utility manager (Paris) | 4 April 2018* |
| 3 | Utility manager (Paris) | 4 April 2018 |
| 4 | Utility manager (Paris) | 4 April 2018 |
| 5 | Utility manager (Paris) | 4 April 2018 |
| 6 | Civic organisation (Berlin) | 28 May 2018 |
| 7 | Trade union (Berlin) | 30 May 2018 |
| 8 | Utility manager (Paris) | 13 February 2019** |
| 9 | Utility manager (Paris) | 3 October 2019*** |

*This interview was supplemented by electronic communication on 11 April 2018.

**This interview was conducted by email communication.

***This interview was conducted by email communication.

Notes

¹ For a subsequent analysis of water supply in Paris during the Covid-19 pandemic, see Le Strat, A. (2020) A Democracy Stress Test: Eau De Paris and The Covid-19 Crisis. In: McDonald, D.A., Spronk, S.J. and Chavez, D. (eds.) *Public Water and Covid-19: Dark Clouds and Silver Linings*. Amsterdam, Kingston and Buenos Aires: Transnational Institute, Municipal Services Project and Latin American Council of Social Sciences (<https://www.municipalservicesproject.org/sites/municipalservicesproject.org/files/publications/Public-Water-Covid-19.pdf>).

² For a distinction between the institutional trajectories of transformative remunicipalisation and pragmatic remunicipalisation, see Lobina, E. and Wegmann, V. (2020) Commentary: the perils and promise of inter-paradigmatic dialogues on remunicipalisation. *Journal of Economic Policy Reform* (<https://www.tandfonline.com/eprint/CXYJCPSC4KRXSKHYX4G/full?target=10.1080/17487870.2020.1810473>). Building on this distinction, we suggest that what Lobina and Wegmann (2020) call progressive remunicipalisation should be more appropriately described as progressive remunicipalisation. In fact, as discussed in the analytical framework of this report, the term “progressive” is more consistent with the idea that gradual institutional change in the practices of remunicipalisation (relative to those of privatisation) may result in incremental improvements in service delivery outcomes.

³ Lobina, E. (2015) Introduction: Calling for progressive water policies. In: Kishimoto, S., Lobina, E., Petitjean, O. (eds.) *Our public water future: The global experience with remunicipalisation*. Amsterdam, London, Paris, Cape Town and Brussels: Transnational Institute, Public Services International Research Unit, Multinationals Observatory, Municipal Services Project and the European Federation of Public Service Unions (<http://www.psiru.org/sites/default/files/2015-04-W-OurPublicWaterFutureFINAL.pdf>).

⁴ Kishimoto, S. and Petitjean, O. (2017) Reclaiming Public Services. How cities and citizens are turning back privatisation. Available at: http://www.world-psi.org/sites/default/files/documents/research/full_publication_reclaiming_public_services_en.pdf.

⁵ Lobina E, Kishimoto S, Petitjean O (2014) Here to stay: Water remunicipalisation as a global trend. Public Services International Research Unit, Transnational Institute, Multinationals Observatory, London, Amsterdam, Paris, November 2014 (<http://psiru.org/sites/default/files/2014-11-W-HereToStay.pdf>).

⁶ Iossa, E., Saussier, S., 2018. Public Private Partnerships in Europe for building and managing public infrastructures: an economic perspective. *Annals of Public and Cooperative Economics*, 89:1, pp. 25-48; Lobina, E., Corporate Accountability International (2014). *Troubled Waters: Misleading industry PR and the case for public water*. Corporate Accountability International, Boston, November 2014 (<http://www.psiru.org/sites/default/files/2014-11-W-TroubledWaters.pdf>).

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