Abhandlungen

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Political drivers of and barriers to Public-Private Partnerships – The role of political involvement

Agency, Bureaucracy, Contract Theory, Governance, Legitimation, Politics, Public Choice, Public Debt, Public-Private Partnership, Tax State, Transaction Cost, Transport Infrastructure, User Financing

The application and design of public-private partnerships between the extremes of purely public or purely private task fulfilment in public services is, in practice, subject to political processes. Decisions about PPPs (realisation, arrangement) are taken in the political arena and are therefore not theoretical optimisation exercises. The interests and resources of the actors who participate in the political decision-making process as well as the rules of the political process have a powerful influence on whether, in what areas, and in what form PPPs are realised. The distance between this output and solutions that are theoretically desirable given certain ideal goals (e. g., efficiency) and conditions can be referred to as political bias. So what role does the political process play in the realisation of PPPs, in the actual design of PPPs, and in their performance? Using public choice and institutional economics theory this paper analyses what chances of success PPPs have given the existing decision-making structures and the inherent incentives for participating actors, and in what way political influence is brought to bear in the first place. Furthermore, aspects of political science in this field (legitimacy, democratic control) are considered as well. Using PPPs there might be a trade-off between reduced democratic control, but also reinforced market control. It turns out that political involvement might be both an important driver as well as an obstacle for (efficient) PPPs and that it is likely to decrease efficiency either way. A case study for user-financing PPPs in the transport sector highlights the problems of political renitency.

I. Introduction

The design of meaningful and successful models of cooperation between the extremes of purely public or purely private task fulfilment is, in practice, more than just the solution to a theoretical optimisation problem where the particular institutional arrangement that promises the best possible (e. g. most “efficient”) solution prevails. Even if societal agreement was to exist on this matter, whether political decisions on Public-Private Partnership (PPP) solutions are, in

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practice, aligned along these very criteria, what chances of success PPPs have given the existing decision-making structures and the inherent incentives for participating actors, and in what way political influence is brought to bear in the first place are questions that would still arise. So what role does the political process play in the realisation of PPPs, in the actual design of PPPs, and in their performance?

Central to this problem is a viewpoint from which the public sector does not appear as some sort of fictive unit solely dedicated to pursuing the public interest. Rather, this public sector is disintegrating into a system with various actors, each pursuing self-interests (Wettenhall 2003, pp. 93ff.). This is the public-choice perspective (Mueller 2003). Taken from this point of view, actors in the public sphere are also individuals who are constantly guided by their own interests – as "political entrepreneurs", as bureaucrats, as voters or as representatives of interest groups. The political output depends on the one hand on these particularist interests and on the other hand on the institutional circumstances in which they are co-ordinated and implemented, e. g. via voting markets, the influence of interest groups, budget regulations or publicity through transparency in decision-making procedures. Decisions on framework conditions and thus the chances of success of PPP arrangements are also made within the scope of a complex political process. This process cannot be simply expected to generate exactly the proper scope of government (Knight 2001) or the optimal institutional regulations in terms of the public, private or hybrid provision of goods and services that would maximise the welfare of society as a whole (Välilä 2005). However, if a significant political bias does exist, it is worth considering it more closely in the following, also in terms of PPP solutions.

The political system is involved in the formation, design, implementation and performance of PPP solutions in a variety of ways:

- Politically, first a decision is made on the *institutional framework* within which public but also private sector provision of goods must be organised. At the same time, this framework determines the extent to which PPPs make it possible to serve individual interests. The political framework for alternative allocation procedures and the appeal of related decisions is defined through rules on the public budget, the possibilities of public financing via taxes or debt, as well as the institutional possibilities for democratic control of, e. g., approval processes for infrastructure projects.
- The political system also turns out to be a potential *driver* of PPP solutions: As long as PPP arrangements serve the specific interests of political decision-makers better than conventional public services a political suction effect will arise. At the same time, under certain circumstances political involvement can also turn out to be a *barrier*, namely when – despite economic advantages – the political net costs are estimated to be higher than the economic net gain.
- Finally, the relevance of the political system leads to very specific *arrangements* and *results* from the realisation of permitted PPP solutions. Arrangements with a special political problem-solving competence and which do not maximise societal welfare but policy-makers' individual interests might shape the design of PPPs.

These realms of influence are connected to central economic and political challenges of PPP scholars are interested in when assessing PPPs:

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- The most interesting aspects from an economic perspective are the incentives for the political actors and the political bias vis-à-vis economically efficient solutions (Mühlenkamp 2006): What makes PPPs attractive to political actors and what output is to be expected against this background, particularly in terms of efficiency? That is, incentives for policy-makers may result in harming an efficient provision in social needs ("inefficient PPP"). A public choice approach may identify these incentives and distortions.
- Of primary importance from a political science perspective is how "co-operative" partnerships between public and private actors, in comparison with the purely public execution of tasks, bring forth new and different forms of statehood, which should be assessed in terms of legitimacy, political control and transparency (Grande/Pauly 2005).

To examine these questions, we will first take a closer look at the political drivers of PPP (section II.): From where do PPP arrangements draw their appeal? What can – with reference to public choice theory – explain their growing popularity in practice? In section III. the political influence on the concrete design of PPP arrangements is investigated in detail with the aid of new institutional economics. Section IV. goes on to deal with the political dimension of PPP solutions through modified decision-making structures and their legitimation. Then, using the case example of user-financed PPP services, such as in the concession model, political involvement will be depicted as a stumbling block that can hinder even efficient projects (section V.). Final remarks are presented in section VI.

II. Political drivers of PPP

1. Overview

What is seen as the new element in the current PPP discourse is not so much the long-observed co-operation between public and private actors, but above all – next to the meanwhile stronger (legal) institutionalisation of PPPs – the increased *public demand* for this political instrument (Krumm/Mause 2009). This increased demand is unlikely to be attributable to the objective superiority of PPPs, especially since empirical (Hodge/Greve 2005, 2007; Obermann 2007; Greiling 2009) and theoretical studies (Beckers/Klatt 2008) would suggest that they are highly controversial.

In fact, the political preference for public-private mixed forms of task fulfilment is more a result of the following two dimensions:

- the specific *political problem-solving competence* of PPPs for handling the current challenges of the public sector (II.2.),
- the special *serving of particularist interests* of the decision-makers involved in the political process (II.3.).

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2. Meeting public sector challenges

First, PPP approaches can succeed in meeting some of the current challenges faced by the public sector (Budäus 2004). These include

- the significance of PPPs for the general reform of public administration: With the use of PPPs the public sector is directly confronted with new management instruments and procedures (Schedler/Proeller 2006). The joint performance of tasks requires a change in thinking in public administrations from previously more heavily bureaucratic structures to management concepts in the sense of New Public Management and the economisation of the administration (Bogumil 2004; Mezger/Schneider 2006);
- the role of PPPs as an instrument for coping with increasing international competition and in particular the EU competition concept. This means that classical public task areas that previously fell under "services of general interest" with monopolistic supply structures are now exposed to competition. These include the field of telecommunications, energy supply, public transport, as well as a range of other task areas currently under discussion (e. g. water supply) (Schneider/Janning 2006). Particularly at municipal level the classical providers of supply and disposal services have to adjust to this competition with entirely new strategies. Meanwhile the incorporation of private partners into publicly owned companies with their classical supply monopoly has become indispensable in a wide range of areas. Here Schneider/Janning (2006, p. 110) see a dominant influence of "action-guiding ideologies" at work in privatisation and competition, which favours PPPs;
- the position of PPPs against the backdrop of ongoing fundamental change in public administration's understanding of its function and role: the transition from a producing to a guaranteeing state. State and public administration should no longer themselves be primarily responsible for the production and provision of public services, rather they should only guarantee that the respective tasks are carried out. The problem of determining the "optimal service level" posed by the New Public Management movement (Naschold 1996; Schedler/Proeller: 2006, pp. 207ff.) is linked to the fundamental discussion being conducted between political, legal, administration and economic scientists by the question of which areas the state is "ultimately responsible" for or has a "guaranteeing" function to fulfil (Reichard 2004; Genschel/Zangl 2007; Heidbrink/Hirsch 2007).

So reforms are politically successful when policy-makers manage "to create user-friendly blueprints that embrace existing schemata" (Isaak 1999). As long as PPPs provide the right starting points for this, they promise a political added value that facilitates their implementation.

3. Particularist interests and PPP

a) The private sector

In addition, PPP solutions serve important individual interests of participants in the decision-making process. This applies primarily to the *stakeholder groups* of the private actors taking

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part in the PPP. Here underemployment and resource availability in the private-enterprise sector count as important private drivers. One example of this is underutilisation in the construction industry, which as a specific stakeholder played a strong role in initiating the debate on PPPs. Furthermore, due to the innovation content and the high level of coordination required within the scope of PPP solutions, accompanying "interaction management" by business consultants and lawyers is a lucrative business segment (Sack 2009) which could develop its own dynamic if supposedly "neutral" advisors pursue income interests. Thus, the private sector mainly sees potentially profitable business opportunities.

b) Political entrepreneurs

In the public sector, on the other hand, the interests of *political entrepreneurs* play a central role. Politicians' interest in satisfying the demand for public services in a vote-winning way outside the constraints of the public budget is deemed in the literature to be *the* ultimate political driver (Bennett/DiLorenzo 1982; 1983; Bennett 2004; Mühlenkamp 2010; de Vries 2011). The financial crisis of the modern tax state overcharging public expenditures in relation to tax revenues (Gawel 2014) brings forth the innovation of the PPP, not because it could succeed in efficiently redefining the proper scope of government, but because it can minimise the political costs of government spending.

With conventional realisation the (unbridled) demand for public expenditure would have to be financed through budget expansion, either through additional tax burdens or additional debt. But for institutional, and also for economic reasons, both are increasingly being pushed to their limits. Debt, in particular, is at the centre of attention: Politically, "debt is favored because repayment occurs in the future (perhaps when others are in office) while the benefits of the expenditures are reaped in the present period" (Bennett 2004, p. 587). However, if growing debt is limited by institutional regulations ("debt brakes") or sanctioned by markets ("debt crisis") then against this background PPP appears to be an effective way "to move government activities 'off the books' or 'underground' by creating an 'off-budget' public sector" (Bennett 2004, p. 587). Its financial operations are not subject to statutory or constitutional constraints. Hence, they "offer politicians greater opportunities for nepotism and favoritism in rewarding their supporters than do on-budget government agencies where freedom-of-information legislation typically mandates an openness and transparency from which off-budget enterprises are exempted as 'private' corporations" (ibid: 588).[1]

In the funding crisis of the modern tax state (continuously growing demands on the state with increasingly noticeable limits on the income side) PPP appears to point to comfortable ways out. PPP is seen as a tool for tapping into private capital for the realisation of public tasks without formally increasing debt. The sustained financial crisis of the regional authorities is therefore rightly seen as a key driver of PPP solutions. In an international perspective, and more generally, it might be politicians' natural propensity to please their constituency that results in

1 Eurostat (2004) admits off-balance practices for private financing PPP projects if construction and availability and/or demand risks have been transferred to the private partner.

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looking for alternatives to public debt as a key driver of PPP. Budäus (2006, p. 14) even talks of a "coercion to co-operate with private enterprises to perform public tasks". This is problematic if and as far as "underground government and off-the-books operations are prominent features of the political landscape that benefit politicians more than their constituents" (Bennett 2004, p. 589).

Instead, the efficiency of political spending decisions could be strengthened, for example in a system that relies more on the benefit principle on the income side than on the ability-to-pay principle of general tax financing (Hansjuergens 1998; Gawel 2014). However, as an institutional innovation, the PPP potentially only threatens to perpetuate the economic problems of the modern tax state instead of solving them in the long term.

If one considers the incentives for politicians to circumvent budget restrictions in serving the wishes of voters and interest groups one has to take into account that these budget regulations themselves have a decisive influence on the political costs of their circumvention (Mühlenkamp 2010, pp. 31ff.). The "temptation" to bypass budgetary and/or debt limits inherent to PPPs requires that the respective budgetary rules discriminate alternative forms of financing regarding both the given transparency and the fiscal sustainability. Here particularly fiscal accounting (cameralistics), which is widely used in public accounting, offers excellent concealment opportunities (Mühlenlamp 2010; de Vries 2011): While public investment fully affects the budget as an expenditure in the first year and possibly breaks the budget limit, this same measure, organised through a PPP, can overcome the given budget limits. A PPP makes it possible to realise a project because the funding requirement is evenly spread over the lifespan of the project and therefore stays below the budget constraint (Vining/Boardman 2008, pp. 12 f.).

If a comparative profitability analysis is performed – as sometimes required by budget regulations, but often neglected in practice – using the usual net present value method, an additional net present value for the PPP would result if based on a sufficiently high interest rate, so that the result of the comparative profitability analysis would reflect favourably on the PPP because in this case public expenditures are incurred later.

Furthermore, a transparent statement of debt can be avoided through a PPP. If the project is a public investment, depending on the respective budget law, the credit ceiling would be raised accordingly, so that de facto full credit financing with a corresponding increase in the national debt can be assumed.[2] In case of PPP, the ensuing payment obligations are, in contrast, not classified as debt and so arouse little public attention. The situation is similar for public guarantees. PPPs are thus an ideal instrument, not just for circumventing short-term budget limits, but also for masking debt.

If one wanted to diminish or even eliminate the existing political appeal of PPPs, even uneconomical ones, the corresponding budgetary provisions would have to be made. Accordingly, Engel/Fischer/Galetovic (2009, p. 3) propose "to ensure that PPP assets are counted as public investments at the moment they are built". This approach is bound to pose statistical demarcation problems on the one hand and, at least in the case of double-entry accounting, methodical difficulties on the other. In the case of cameralistic accounting this approach does not relieve of

2 This refers to the Golden Rule of Financing: 'The golden rule states that, over the cycle, government borrowing should not exceed net government capital formation.' See OFCE (2007).

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the need to define, regulate and enforce debt limits. De Vries (2011) proposes a "prospective taxation test", whereby everything within the scope of PPPs that leads to subsequent tax payments counts as public debt. Another proposed alternative (Mühlenkamp 2010, p. 35) is the obligatory extension of the planning period beyond one budget period. The financial effects of conventional projects as well as PPPs over the entire lifespan or contractual period would have to be reported. According to the cameralistic perspective this would pertain to future expenditures. Under the double-entry regime future expenditures would have to be disclosed. Budget planners and decision-makers would then have to give thought to how they would balance income and expenditures or revenues and expenses in the long run. However, without effective debt limitation rules, cameralistic budget balancing can always be achieved by borrowing. In order to block this path debt limits have to be established.

Regardless of the respective accounting system, payment and expenditure obligations should, as far as possible, appear in a clearly visible position – e. g., under the total account or the balance/capital account – and not concealed in the attachments to the budget or the annual report. This increases transparency and lowers the incentive to make politically distorted financial decisions.

Second, budget law would have to clearly regulate that in all decisions on public investments and PPPs the associated long-term financial effects and existing obligations/burdens would have to be considered and that, against this background, all non-viable solutions are to be dismissed.

Here it is important whether – as for example at state level – the enforcement of budgetary regulations can be achieved only through public attention and the ensuing *political* pressure. Public influence is relatively small under the given budget regulations; constitutional restrictions on fiscal power have a stronger effect (Brennan/Buchanan 2006). Alternatively, the enforcement of regulations – e. g., at municipal level – can be guaranteed, at least theoretically, through local authority supervision, i. e. on the basis of constitutional regulations. As long as local authorities really only approve borrowing and PPP when not in conflict with the long-term performance of the municipality, uneconomical forms of task performance are not directly preventable. However, if the approval process requires that alternative and comparative economic analyses be submitted, such a process has an overall disciplining effect. In the case of double-entry accounting, consistent enforcement of the resulting balance must be ensured. This has the effect of an implicit debt brake and reduces the incentive to use PPPs to circumvent budgetary limits.

In summary, the realisation remains that the political incentives to embrace even uneconomical PPPs in order to extract political rents crucially depend on the respective budget regulations and can therefore also be mitigated through suitable institutional design of the public accounting system as well as through (constitutional) control mechanisms (Ball et al. 2007; Brennan/Buchanan 2006).

Efficiency as a rational argument for PPP solutions is not necessarily just a pretext advanced by politicians, as often assumed (Mühlenkamp 2006); rather, the potentially greater efficiency of PPPs compared to conventional task fulfilment simultaneously may sustain political interests (coincidence of public and private interests):

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- Efficiency reduces, ceteris paribus, the need for expenditure making it easier to observe fiscal spending limits.
- For the same reason, efficiency also tends to a certain acceleration of measures.
- Because of the reduced need for refinancing in the case of user fees, efficiency also contributes to diffusing payment resistance (see section V.).

c) Voters

Voters are primarily interested in the benefit resulting from additional public services. Arrangements that allow further masking of the resulting costs (continuity of the fiscal illusion) are particularly welcome here: The modern tax state nurtures the fiscal illusion, i. e., the misconception that state services are afforded free of charge, by decoupling spending and income decisions and negotiating them in separate political arenas. This allows influential interest groups to encourage politicians to act as interest brokers and to distribute the burden of public tasks among less articulate or assertive groups (McCormick/Tollison 1981). As already illustrated, PPPs make it possible to perpetuate the fatal coordination and efficiency deficits of the tax state on the next step of the ladder and so meet with political approval. Only arrangements that lead to novel or additional refinancing through user fees destroy the fiscal illusion and evoke political resistance (Gawel 2011; see section V.).

d) Bureaucrats and the administration

Ultimately political decision-making processes are also guided to a large extent by administrations. Laws are prepared by ministerial administrations using expert knowledge and are implemented and executed by administrative units. The "bureaucrats" employed in these organisational units are not "pouvoir neutre" either, but self-interested individuals concerned with influence and increased budget (Niskanen 1971; Tullock 1965).
Administrations exert considerable influence on the realisation and success of PPPs – in designing framework conditions and contracts, in tendering procedures as well as in implementation. Since with PPPs, besides the actual production, further value-added steps are typically outsourced to the private sector, the interest of *bureaucrats* in PPP solutions is ambivalent: On the one hand, if a budget is limited PPPs permit additional public measures which are associated with administrative influence and the management of larger budgets. On the other hand, PPPs demand a certain sharing of responsibility with the private sector and hence, a loss of power and influence on the side of public administration, which can no longer control all the value-added steps. Politicians and bureaucrats on the different levels of the political system (municipality, state, federal level) could also use such partnerships to "serve their clientele with public contracts" (Mühlenkamp 2006, p. 30). In the case of tasks that could essentially be fully privatised, in particular, the bureaucratic and political influence interests of administrations (but of politicians too) argue against releasing these functions from the public sector (Bennett 2004, p. 589), but rather favour PPP solutions that guarantee a residual public influence. Thus, even in-

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dicated privatisation decisions can be similarly distorted (Villalonga 2000; Savas 2000). That way, areas that would be accessible to full privatisation can be kept within the public sphere of influence.

e) Private interests, public welfare and third party detrimental contracts

Political bias can, from an economic perspective, result in "too many" or "too few" PPP measures. If inefficient PPPs are realised for political reasons it can on the one hand be at the expense of the actually indicated public task performance, but also at the expense of efficient privatisation not being realised.

The perspective of actors guided by self-interest on which our analysis is based has not gone unchallenged. Some scholars consider the hypothesis of the Self-Interest Axiom as a basis for political interaction to be overstated (Krumm/Mause 2009). Even if one does not care to sustain the fiction that public authorities are oriented toward the common good, some do doubt that the result must always be a *negative* political bias: Sadka (2007, p. 488), for instance, explains in a conciliatory tone: "It may well be the case that PPPs were initiated as a means of evading expenditure controls and hiding budget deficits […] When properly designed, in particular with respect to the sharing of risks between the public and private partners, PPPs can improve the quality of services provided before solely by the public sector, without raining their costs to society as a whole." The crucial question here is with what probability are "properly designed" institutional arrangements expected? At best, individual and public interests coincide (harmony of interests) resulting in more cost-effective and/or qualitatively better services. However, in the worst possible case of a conflict of interests, a political bias is likely to occur, at the same time making itself felt as a welfare loss.

The suitability of PPPs for circumventing budgetary barriers and the associated earning or profit opportunities for private enterprises can easily explain why politicians and participating enterprises (especially the construction industry, banks and consultants) might have a joint interest in implementing PPPs, even when from the viewpoint of regional authorities or taxpayers other solutions make more sense. Why do taxpayers put up with this? First, the efficiency characteristic is not obvious, but rather as a result of information asymmetry this information is hidden from the public. Therefore, targeted investment can be made in political disinformation in order to make citizens believe that PPP is the best alternative. This refers to a typical lack of accountability and transparency. In addition, taxpayers who subscribe to the fiscal illusion do not feel directly burdened by (government) spending projects. This is why they will insist more strongly on the implementation, i. e., incurring expenditures, than on the economic viability of the financing on the revenue side. Lastly, political control is a public good (Mühlenkamp 2006, p. 42). The continuous control of politicians by voters (and the control of bureaucrats by politicians) is an agency problem (Dewatripont/Legros 2005), whereby a large part of the resulting benefit is reaped by others, even though the controller must pay the costs of the control out of his own pocket. That is why relatively little control is to be expected, with agents (politicians, bureaucrats) having discretionary scope for action instead.

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III. Political involvement and design of PPPs: insights from transaction cost theory and theory of incomplete contracts

1. Transaction costs, relationship-specific capital and efficient contracts

According to transaction cost theory (Coase 1937; Williamson 1975; 1985) a comparison of the production costs and perhaps the benefit of public services in the case of public production with those of private production is not sufficient. Next to the production costs it is equally important to also consider the transaction costs ensuing from the initiation, conclusion and monitoring of the contract and the contract implementation. So from the transaction cost theory perspective the inclusion of private partners is only appropriate when the sum of the production and transaction costs is lower than that incurred by purely public task fulfilment (Greiling 2002, p. 342; Välilä 2005; Mühlenkamp 2006; Budäus/Grüb 2007).

The amount of the transaction costs largely depends on the *specificity* of the capital to be deployed for a particular transaction (for empirical studies see Obermann 2007; Välilä 2005). Specific capital can only be deployed with the current contract partner with full returns. Because specific capital often has to be used in PPP contracts, dependencies between the contractual parties and higher transaction costs, particularly for collateral, are the result. Dependencies increase the probability of renegotiations with the aim of removing the other party's expected advantage (so-called quasi-rents) from the contract (holdup problem – Hart/Moore 1988; Nöldecke/Schmidt 1995; Bolton/Dewatripont 2005).

Basically, transaction cost theory says that as the volume of specific capital increases more integrated solutions or the institutional arrangement "hierarchy" (instead of "contract") should be chosen. PPPs are therefore problematic when it comes to specific investments or when there is a high dependency on contract compliance and/or realisation of the originally planned transaction relationship. Hence, it is easier to outsource cleaning services to the private sector than for instance wastewater treatment plants or the military (Mühlenkamp 2006, p. 45).

Now in the relevant literature, which goes on the premise of profit-oriented private contract partners, it has emerged that specific investments can basically be collateralised by certain types of contracts so that a hierarchy is not necessarily needed in order to guarantee specific investments and defend against holdups (Bös 2001; Bös/Lülfesmann 1996). Translated to public tasks this result seems at a glance to imply that the activation of private enterprises to fulfil public tasks represents a correspondingly solvable contractual problem. However, as long as the public authorities are committed to maximising welfare rather than making profits, they have less room to negotiate/act than private enterprises with the result that under certain circumstances – unlike between profit-maximising contract partners – they are not in a position to conclude an efficient contract (Bös/Lülfesmann 2001).

One particular reason for this is the incentive asymmetry that exists between public and private contract partners in terms of their use of options to collateralise specific investments and in renegotiations. While private enterprises are motivated by individual profit interests, public negotiators – when not oriented towards the common good – stay in the range of low-cost decisions (Kirchgässner 1992) that do not affect them personally. As a result, it can be expected that

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contracts between the public authorities and private enterprises tend not to turn out in favour of the public authorities (Bös 2001; Bös/Lülfesmann 2001).

2. PPPs, incomplete contracts and renegotiations

From an institutional economics perspective PPP arrangements must be concluded in the form of highly incomplete contracts. The incompleteness of the PPP contracts creates significant room for manoeuvre and increases – as does dependency from the use of specific capital (3.1) – the probability for renegotiations. Here once again profit-oriented private actors are structurally at an advantage. Against this background Engel/Fischer/Galetovic (2009) formulate a theoretical model from which it can be derived that the behaviour of enterprises when bidding is such that they anticipate the possibility of renegotiation and therefore tend to respond to calls for tender with low bids in order to win the competition or to make a PPP appear favourable. Since the political level is also interested in implementing PPPs and thus a large proportion of the costs can be passed on to subsequent generations of politicians, renegotiations take place soon after the contract has been awarded, allowing the bidders to distance themselves from their (too) low bids.

This can lead to lock-in effects: This means that the task or service to be performed within the framework of the PPP is so specific that once the PPP contract has been concluded both partners have practically no way of getting out of it again. The adjustment and design measures are then largely shaped by the existing power structures between the partners and possible information asymmetries. In this context the different cultures between private and public partners are also potentially significant.

In fact, for Latin America it can be shown that approx. 30 % of just under 1000 concession contracts that were concluded between 1985 and 2000 ended up being renegotiated (Engel/Fischer/Galetovic 2009). In the area of transport infrastructure the rate of renegotiation was approx. 54 %. In the water sector the rate was as high as 74 %. In most renegotiations the concession holders came off better than before. Frequently concessionaires manage to push through tariff increases and reductions in their investment obligations. Interestingly, a large proportion of the renegotiation already took place during the construction phase. For Chile, an evaluation of 50 concession contracts in the period between 1993 and 2006 (ibid) reveals that just under three renegotiations per contract took place resulting in an average increase in spending of 30 %. Most of this was due to the need for additional work (supplements) and was already agreed during the construction period. Interestingly, within the framework of bilateral renegotiations between the Chilean Ministry of Public Works and concession holders, two thirds of the additional expenditures were shifted into subsequent legislation periods.

The empirical findings support the theoretical model, since the incompleteness of long-term contracts suggests that contractual adjustments would not be expected at such early stages as is observed. Therefore, early-stage contractual adjustments indicate a strategic behaviour of the participants. It would seem that there is implied consent/agreement between political levels and bidding enterprises on the quick modification of signed contracts (Mühlenkamp 2010, pp. 34 f.).

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Lastly, it should be noted that procurement procedures within the context of conventional task fulfilment also offer incentives to make low bids with subsequent renegotiations in order to win contracts and to facilitate the political enforceability of projects. However, one decisive difference between conventional procurement and PPP lies in the fact that within the scope of PPP contracts it is not only the value-added step "building" that is up for negotiation, but rather several value-added steps. As a result, PPPs establish far more starting points for renegotiation than conventionally realised projects. This increases the taxpayer's spending and/or cost risk.

IV. The socio-political dimension: governance, legitimacy and control

1. Challenges and risks

Of course, apart from the "economics of PPP" (see De Bettignies/Ross 2004 and Grimsey/Lewis 2005 for surveys), political involvement also plays a role in the socio-political dimension. This relates on the one hand to changes in the political decision-making structures and options resulting from the extensive use of PPPs. On the other hand, it is connected to the legitimation of the input of public resources within the scope of PPPs. Moreover, it cannot be assumed that public services in a PPP can be controlled and steered in the same way as in an organisational unit which is entirely in public ownership. Hence, there is a need for differentiated legitimation and control options for the various different types of PPP.

From a socio-political perspective the question that arises in relation to PPP is of a democratic-theoretical nature. Why and how is the application of this new political instrument democratically legitimated? Schäferhoff et al. (2007, pp. 24ff.) discuss legitimation according to the criteria of inclusivity, responsibility and deliberation. They refer to the issues of state sovereignty, the legitimation and political control. Since within the scope of PPP-solutions private interest groups participate in decision-making on public tasks, i. e., spending of public budgets, significant distribution effects are feared. A "de-privilisation" of interests that are weakly articulated or asserted (Sack 2009) could go against important public task fulfilment goals. In addition, the active participation of private contractors with their own profit interests might increase the probability of a trend towards deregulation because regulation results in reduced profits: less quality, less security and less environmental protection are the feared outcome. Finally, "forced PPPs" on the initiative of private contractors could come into play, whereby projects that can not be implemented democratically might potentially be realised. A certain tendency towards "self-service" in the private business sector is the main concern here.

Furthermore, it has to be taken into account that stronger participation of the private sector in the fulfilment of public tasks is not merely associated with a change or erosion of the classical model of statehood, it also raises questions of sovereignty and control (Grande/Pauly 2005). The transfer of tasks that are exclusively in public ownership to any form of PPP whatsoever reduces the scope of direct democratic control (Rügemer 2004). In this context the argument is put forward that there is asymmetric distribution of information between the partners of different origin or partners with divergent understandings and expectations which in the event of a

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breakdown in competition and breakdown of public control would lead to precisely the opposite of the objectives sought, namely to *rent-seeking* behaviour and inefficient arrangements at the expense of the taxpayer (cf. Greiling 2002, pp. 341-342). Börzel and Risse (2005, p. 207) classify PPPs into a context of the successive erosion of the foundations of "Westphalian statehood".

Moreover, whether such delegation and contracting out is consistent with Westphalian sovereignty crucially depends on the ability of states to take it back, in the sense of having the capability to compensate for failures of self-regulated private actors by direct intervention. This capability might be a given in a strict legal sense (as the very term delegation implies), but how realistic is this politically? What does it mean for Westphalian sovereignty when a legal right increasingly becomes an empty possibility?

However, the authors warn against overrating the aspect of potential losses of sovereignty and control and argue instead that it should rather be regarded as the price for increased problem-solving capacity and legitimation of international policy (Börzel/Risse 2005, p. 208). As Pauly/Grande (2005, p. 11) stress, one should assume less a loss of sovereignty than the complex conditions of mutual recognition of sovereign actors, the division, transformation and the different development of internal and external sovereignty.

2. The problem of control

Hence, how these mostly long-term PPP projects can best be subjected to democratic control by the administration, and ultimately by parliament and citizens too, is a central question in political science. From an economic perspective this concern is reflected in efforts to tie the allocation of goods in the public sector as closely as possible to the preferences of the citizens. Of course, market preference control and democratic control don't only have deviating modal forms, costs and opportunities, they also target different aspects. To that extent (increasing) market control is certainly no substitute for (decreasing) political control. Still it must be noted that the repeatedly bemoaned erosion of democratic control is simultaneously accompanied by a systematic "*trade off* between legitimation and effectiveness" (Krumm/Mause 2009, p. 114). The loss of transparency and political responsibility in PPPs could at the same time imply a gain in effectiveness and efficiency in the fulfilment of tasks and therefore develop elements of market control.

Which control regime appears more efficient is also a question of institutional competition. At least from an economic perspective there are significant doubts as to whether a "democratic control" which is exercised by means of the current political process (i. e. through elections, public debate etc.) can guarantee an effective link between the public sector and citizens' preferences (Brennan/Buchanan 2006). The current crisis of the tax state clearly points to a spectacular failure of democratic control: The secular expansion of spending in order to serve particularist interests along with the concurrent de-coupling of revenue procurement, increasingly through public debt, has – despite or precisely because of democratic control – just led to a financial, debt and acceptance crisis of the tax state, as can now be observed (Gawel 2013, 2014). If public tasks are financed through the national budget, citizens get the impression that

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they can use a motorway, tunnel or other infrastructure "free of charge" while the "state" courteously pays the bill (fiscal illusion). Ironically, it is precisely this development that has pushed the tax state, so easily given to refinancing, to the fiscal limits: It is no longer able to finance the tasks it is expected to perform! If the design of institutions and incentives is problematic the watchdog of democratic control will lead directly to the reverse.

Against this background, democratic control could be strengthened either in another way conceptually, e. g. through participation or through direct democracy – or alternatively one accepts partial erosion as the result of the described trade-off in favour of more efficient market controls. One way of counteracting information and control problems which is discussed in the literature is greater participation of citizens in the planning of PPP projects (Krumm/Mause 2009), as is the case in Switzerland's system of direct democracy. An empirical study focussed on the aspect of citizen participation by Mittendorf (2008, p. 320) shows that direct democracy processes rarely prevent (partial) privatisations but they can bring about public debate and sometimes slow down the process. The main function of direct democratic processes might well be to establish transparency and to bring about a discussion of the consequences and rationale of privatisation measures. The experiences of the Swiss with referendum democracy clearly indicate that the anticipation of possible reasons for rejection ("referendum security") results in the political process becoming much more inclusive and transparent, which in turn can have a positive effect on the side of input legitimation (of PPPs).

V. Political involvement as a barrier to PPP projects: the case of user-fee financing

It is by no means always true that political involvement leads to PPP being politically preferred beyond its economic preferability. The fact that political considerations can also bring about a disadvantage for PPP is demonstrated by the example of the concession model, in which the project costs are covered by user fees. This is where, next to private financing in the strict sense, private funding also appears (de Vries 2011). This changes the decision makers' political cost calculation – especially under the conditions of the modern tax state (Gawel 2011, 2016). If the private operator of an infrastructure project is allowed to charge user fees for refinancing, then the public budget – unlike other forms of PPP – is permanently relieved (de Vries 2011: "genuine off-public-balance route"), but the users (and at the same time the voters) are held directly responsible for the cost; their fiscal illusion is shattered. User-fee financing could additionally satisfy spending wishes while circumventing all the fetters of the budget opening up more room for manoeuvre for political decision-makers; however, politically speaking, the consequences must be weighed up on acceptance markets – on the one hand the expected sanctions that result from "fee weariness" and on the other hand the reward promised by additional spending programmes.

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1. The political economy of user-fee financing: from tax resistance to "fee resistance"

The weaknesses of the tax state are usually explained using political economy models (Leviathan theory, median voter theory, interest group and bureaucracy theory) as, due to the self-interests of the participating actors and the institutional particularities of the co-ordination process through voting markets, the political process of democratic decision-making is hardly in a position to secure the necessary coupling of public services to citizens' preferences (Hansjürgens 1998). The result would be efficiency losses in state action.

Apart from this, political economy can also contribute to estimating the chances of the political realisation of PPP innovations that rely on user-fee financing and therefore contribute to transforming the state revenue system. This is where political appreciation of PPPs touches on problems of the benefit principle for public revenues. Public spending and the revenues required for it are coupled by means of user-fee financing; this shatters the comfortable fiscal illusion in tax-funded budgets and changes the political support for the respective projects – again regardless of the economic advantages.

Looking at the political realisation of user-financed PPP solutions, the question arises of whether political entrepreneurs are interested in a loss of their discretionary room for manoeuvre and the possibilities of separate serving of spending wishes and resistance to burden sharing as "transfer brokers". How does the "increase in visibility and therefore the tangibility of taxes" (Hansjürgens 1998, p. 312) affect the political gratification of spending programmes on consent markets? Are those who are obligated to pay, who are simultaneously voters, interested in breaking the fiscal illusion, and how do interest groups react to the imminent shortening of their windows of opportunity for rent seeking, which is always made easier when decisions on expenditures and revenues are made in separate political arenas?

Traditionally, the literature has paid a lot of attention to "tax resistance", which results from the lack of returns from the tax and demotivates the taxpayer from paying yet another individual tax sacrifice for an exclusion-free supply of public services (Braak 1983). However, "tax resistance" is also to be expected at the constitutional level, i. e. in the question of which financing norms should be established to enable public services, mainly when these decisions are made not from behind Rawls' veil of ignorance but out of anticipated concern for interests. This is especially true when a transformation from a given (ability-to-pay oriented) tax-state arrangement to a payment model has to be found. This "payment resistance" is not fed by the lack of returns as in the tax case, it is rather fuelled by resentment at now having to pay charges for the supply of a good that was previously free. This threatens the previously possible free utilisation up to the point of satiation and implies the certain withdrawal of purchasing power, which is unlikely to be compensated by a lowering of the tax burden in another area. In terms of political interests the potentially possible improvement of allocative efficiency of the supply of state goods through PPP as a public good fails to draw a response; there is no political gratification. PPP is measured purely by the yardstick of individual costs and benefits.

There is solid empirical evidence for the existence of payment resistance (Gawel 2011, 2016). Constitutional payment resistance thus turns out to be a powerful brake in system transformation also for user-financed PPPs: Politicians do not want to surrender their discretionary windows of opportunity and fear the mobilisation of resistances among those who have payment

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obligations; citizens value the cost illusion, interest groups their rent-seeking options, and the efficiency of state activity remains a public good without support in the political process. Let us now take a closer look at these concepts, taking user-fee financing of transport infrastructure as an example.

2. Opportunities and problems associated with user-financed highway infrastructure

The use of transport infrastructure is particularly suited to user-fee financing (Kühling et al. 2011; Kossak/Pällmann 2009) as any private or club good that admits exclusion by pricing. As a mixed-public "toll good", highways at any rate have an exclusion technique that can be organised at acceptable cost. In practice, user-fee financing of transport routes is practised in many different forms at home and abroad (Gawel/Schmidt 2010, pp. 61ff.), also as PPPs (Gawel 2011). These PPPs belong to the long-term infrastructure contracts (LTIC-type PPP – Hodge/Greve 2009).

From an economic perspective, the application of user-financed operator models is primarily associated with the benefit principle advantages of revenue procurement (Alfen 2001; Gawel/Schmidt 2010). Here the costs are passed on directly to the users of cars and trucks according to the causation principle, and not to the broader population of taxpayers according to the burden distribution regulations of the tax system. It seems "fair" when individual users of transport infrastructure are only obliged to pay to the extent that they receive "returns" ("just exchange"). In addition, benefit financing is seen as advantageous because as a result of the coupling of service and costs budget decisions are more rational and at the same time directed towards the preferences of the consumers; the demand must distance itself from the fiscal illusion in the provision of public goods, i. e. the idea that infrastructure goods provided by the state at no charge are "free". In this way the true costs of the provision of infrastructure are made transparent (diminishing the cost illusion), resulting in solutions which are more in line with the market while also counteracting excess demand.

In contrast, an ability-to-pay-oriented tax financing system does not directly link revenues with expenditures, but relies solely on the economic capacity of the taxpayers when calculating the financing contributions, regardless of use. Efficiency aspects of a public provision of goods can not be fulfilled in this way. The political supply is de-coupled from the preferences and willingness to pay of the demand; the consumers in turn articulate an inefficient infrastructure requirement corresponding to the point of satiation.

However, the sole application of preference-oriented infrastructure control/management naturally reaches limits; to that extent the known disadvantages of equivalence financing give cause for restrictions and modifications: Besides the social consequences of exclusion through payment for the use of infrastructure, positive external effects of the infrastructure that can not be reflected in market demand also have to be considered. In other cases there might also be cause for a merit-based correction of preference, because the user revenues would otherwise flow primarily into the expansion of existing routes that are in high demand.

The negative employment and growth effects in the transport sector that stem from the payment obligation for the use of infrastructure may be socially efficient because the full costs of trans-

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port services have to be factored into the price, thus leading to an efficient supply. However, at the same time these effects are awkward at the political level, since the interests of freight carriers are so easily organised politically and they can refer to follow-on effects for the common good (jobs, growth). This leads on to the question of exactly what prospects does the economically meaningful implementation of user-fee financing have in the political process (5.3).

3. On the political economy of user-financed transport infrastructure

Even socially profitable PPP-based infrastructure projects require political implementation and depend on the acceptance of the potential users. Hence, political-economical obstacles have to be taken into consideration (Gawel 2011). To do so, we will first examine the interests of the users (section V.3.a)), and then those of political entrepreneurs (V.3.b)) and lastly those of "bureaucrats" (V.3.c)). What then are the concrete chances of overcoming "constitutional fee resistance" (see also section V.2 above)?

a) User-fee financing and behavioural pricing: willingness-to-pay and political acceptance

User-fee financing successfully contributes to the fulfilment of public tasks, if and as far as there is sufficient willingness-to-pay for PPP programmes on the part of the users. If forced demand – for example in the form of the "obligation to connect and use" common for municipal services – is waived, then willingness-to-pay determines the refinancing possibilities of a project. According to allocation theory precisely this would be welcome, since in the meaning of equivalence, the preference of the users weighed up against the project costs lies above the realisation of infrastructure measures. From the viewpoint of the (public or private) project operator the so-called traffic volume risk is realised here. If the operator carries this risk, a market-based equivalence of the infrastructure financing would be established. The users decide on the realisation of projects according to their preferences

In fact, the so-called F-model in Germany (see Gawel 2011) foresees the initial provision of state funding to launch the project, so that from the outset users only pay a part of the project costs. In view of the economic and regional-political spillover effects of area coverage along with prediction uncertainties and other political risks, this may still count as proper sharing of the financing responsibility. Furthermore the law on public fees guarantees that the operator's costs will be covered, so that in fact the traffic volume risk is carried by the users, who may theoretically have to compensate for the lack of demand with arbitrary increases in the toll charges. Because this typically triggers a downward fee spiral, in the case of realised F-projects that were plagued by a lack of demand from the outset, the public authorities helped out by granting concessions, for example by extending the concession period (Gawel 2011).

The allocative control effect is watered down even more when – as has happened on several occasions – in cases of insufficiently projected traffic volumes or high anticipated risks for the private operators, politically desired projects are suddenly realised after all from the general

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budget (Gawel 2011). In this way, the market-based information on the clearly inadequate cost-benefit relationship is ignored by the public planner. Here the political realisation of these projects takes place entirely independently of the users' willingness to pay.

But in this arrangement too, the private willingness to pay remains a key factor for the success of a user-financed project. For this determines the risk for the private investor and the potential transaction costs for renegotiations. Moreover, experiences in Germany show that willingness to pay is "low" in the sense that the demand at least fell significantly short of the respective estimated traffic volumes and, considering the project costs, was anything but adequate (Gawel 2011). Given high value attached to an efficient transport infrastructure how can the restraint of the users be explained? Finally, international experiences demonstrate that a cost-covering user financing of road transport infrastructure based on PPP is entirely feasible (Shaoul/Stafford/Stapelton 2006).

First, it seems clear that infrastructure users who are accustomed to the fiscal illusion will, out of their own political interests, reject a sudden payment obligation, particularly if this is experienced as an additional burden with no change to the remaining tax burden. In contrast to neighbouring European countries, where the motorway network was largely financed through charges, the challenge in Germany is to convert the existing system, which the user to date has perceived as "free", to a fee-financing system in order to maintain and expand the network. At the same time – as a second complication specific to Germany – the F-models, as singular projects, remain alien in a system of otherwise predominantly charge-free use of road infrastructure. Both factors put a strain on the acceptance of user financing. The willingness to pay for a service that hitherto appeared to be available free of charge and where the obligation to pay only appears as an exception in certain places is obviously extremely low (Alfen 2001, p. 6). Resistance in political arenas and on voting markets ("political resistance") but also "economic resistance" as a result of demand refusal and substitution reactions are the result.

The provision of tolled road infrastructure represents a competitive economy output without forced demand, which for a variety of reasons can meet with low willingness to pay or flagging quantities demanded:

- there is no obligation to use;
- direct alternative routes provide close substitutes;
- a dense general transport network provides broad substitutes for avoiding individual tolled objects;
- the demand for the tolled good does not represent an essential demand and is correspondingly price-sensitive;
- the consumers decide under "fiscal illusion": the toll-free use of the route segment and the exceptional nature of the toll object in the tax-financed route system set "reference prices" close to zero and damage the perceived price fairness and therefore the acceptance of the toll.

Acceptance deficits, which are manifested in low willingness to pay, can also be explained by means of the Theory of Behavioural Pricing (Maxwell/Estelami 2009) and so at the same time can be re-shaped in terms of price theory (endogenisation of the acceptance aspect). The starting point of Behavioural Pricing is a behavioural-scientific and in particular a psychological foundation of price-based demand behaviour. While in neoclassical models of price theory an

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individual only has to compare the supplier's price with his own maximum willingness to pay (reservation price) in order to come to a demand decision, in Behavioural Pricing models, among others,

- subjective price perception and
- subjective price evaluation play an important role, in particular the "price fairness" experienced, which comes into question when, for instance, the consumers have the impression that they are in a predicament and the supplier is taking advantage.

An important class of model of Behavioural Pricing is represented by so-called reference price models (Lichtenstein et al. 1990). This is followed by the individual price assessment by means of a judgement anchor as a reference value, to which the given supplier price must be related. Here various price categories can be taken as a measure of comparison:

- current comparative values,
- historical comparative values,
- intrinsic reference prices such as the reservation price, the expected price for a good of comparable type and quality, a price usually seen as the "standard price" etc.

When pricing previously tariff-free use of transport infrastructure (as in Germany) the reference price can only be a value of zero:

- current comparative values (e. g. tariff-free parallel routes, but also all other roads in the national transport network) indicate the value zero;
- historical comparative values (tariff-free use of highways) also deliver "zero information";
- as a result of the nurturing of the fiscal illusion all intrinsic reference prices (expectation, perceived standard price and reservation price as the maximum willingness to pay for a toll) should be adjusted to zero.

At the same time, for exceptional objects, meaning all measures projected according to the F-model in an otherwise free transport network, price fairness can be critical: Anyone who only grants a certain passage, e. g. the transfer to an island holiday home, at a charge exposes himself to suspicion of taking advantage of the users' predicament (no alternative routes). From a theoretical perspective, projects of this nature are likely to meet with very low acceptance.

A reference price model with a framing effect suitable for our purposes goes back to *Thaler* (1985): *Framing* in this case is to be understood as the institutional setting for an assessment decision. A framing effect arises when the setting itself influences the decision (relevance of the assessment frame). In reference price models negative deviations of a selling price which is under assessment from the reference price are experienced as profit ("gain"), whereas positive deviations are experienced as sacrifice ("loss"). Experimental economics research has now discovered that people don't by any means place equal value on "gains" and "losses", but rather evaluate these differently. The so-called *Prospect Theory* goes back to *Kahneman/Tversky* (1979), who contend that the assessment of the utility of "gains" is concave, whereas that of "losses" is convex. The result being that – in absolute terms – an upwards deviation from the reference point endows less utility than an identically equal downwards deviation results in feelings of sacrifice (*losses loom larger effect).*

Against this backdrop, *Thaler* (1985) introduced the differentiation between acquisition utility and transaction utility in consumer behaviour:

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- The *acquisition value* for a consumer describes the difference between the reservation price p_{Res}, i. e. the maximum willingness-to-pay for a good of this type and quality, and the selling price p;
- The *transaction value* on the other hand denotes the difference between the selling price p and a reference price p_R, e. g. a "fair price".

An individual who is neo-classically oriented will make his decision based exclusively on acquisition utility and will not allow himself to be impressed or disappointed by "gains" or "losses" in comparison to the reference price. However, in the *Behavioural Pricing* model an emotionally competent individual will also allow disappointment or pleasure to enter into his purchasing decision according to the transaction utility.

The differentiation introduced by *Thaler* (1985) can now explain why nonetheless a consumer refuses the purchase of a good with the highest acquisition utility (i. e. the highest consumer surplus), because the selling price – measured against the reference price – "disappoints" him.

In the toll case this could explain why civil engineering constructions, which due to their "surprise" payment obligation appear as foreign bodies in the road network, are evaluated and demanded below their acquisition utility. To that extent, all traffic forecasts that fail to consider the "loss effect" of disappointed transaction utility are bound to go astray.

If we pick up the idea of the *Prospect Theory* according to *Kahnemann/Tversky* (1979) and evaluate *gains* and *losses* differently, then the following evaluation function would result:

$$\Phi = \phi_1 (p_{Res} - p) + \phi_2 (p_R - p), \quad \phi_1, \phi_2 > 0$$

Applying this to the toll model (Gawel/Schmidt 2010, pp. 119ff.) would then proceed from the assumption that the previously charge-free provision of transport infrastructure and the remaining exceptional character of individual segments of the road network now being subject to charges would feed the fiscal illusion and set problematic reference prices for toll goods ($p_R = 0$).

$$\Phi = \phi_1 (p_{Res} - p) - \phi_2 (p), \quad \phi_1, \phi_2 > 0$$

In a model of this type every positive price for the toll good means a disappointment which threatens to erode the acquisition utility. According to the model the only possible solution is to raise the reference price. How could such an adjustment of the reference price be successful?

- The utility of the toll good, but above all of user financing, could be intensively communicated in such a way that private sector solutions appear less unfair;
- Alternative routes could be closed so that comparative reference prices do not turn out to the disadvantage of the toll object; however, this could just as easily have an adverse effect on fairness opinion (creation of a predicament);
- Improving the service supplied by the toll good: If the new offer provides noticeably better service, e. g. more comfort, multi-lane traffic routing, time-saving passage, the fairness judgement of toll goods can be improved;
- "Updating" reference prices: Finally, attempts can be made to raise reference prices over time through simple habituation effects ("updates") (Briesch et al. 1997; Kopalle/Lindsey-

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Mullikin 2003). Initially, moderate introductory prices are charged, which push the reference prices up over time and later allow higher selling prices.

b) PPP user financing and political entrepreneurs

Just how promising is user financing from the point of view of the interests of "political entrepreneurs"? After all, it is not only political decisions that are required to open up legal options for user-based financing of infrastructure measures, each of these individual projects has to find political support and, in particular, must be pushed through against "fee resistance".
However, the incentives for the political realisation of social efficient transport infrastructure through toll financing, for example through premiums on voting markets, seem generally weak: On the one hand the charging of tolls in itself is already unpopular because fee-based financing makes the costs of transport infrastructure visible and specifically allocates these costs to the user. Compared with the system of burden distribution, which is aligned along the less obvious incidence of the tax system, the users end up in a losing position in terms of redistribution policy. On the other hand, it cannot be ruled out that a consistent implementation of user-based financing of infrastructure is associated with job losses in the transport sector, which evokes additional resistance from well-organised interest groups. Acceptance is also burdened by the prevailing fiscal illusion in the area of transport infrastructure as well as the exceptional position of individual toll projects which set problematic reference prices – as explained above. Acceptance on voting and other political consent markets is therefore critical (Ullrich 2002). Although the perception of a cumulative burden as a result of toll charges and mobility taxes is not likely to affect utilisation decisions, it is certain to have a significant influence on political approval ratings. This is why, particularly in the area of transport, the chances of gaining political approval for consistent equivalence financing are likely to be very small.
Furthermore, given the regional incidence of selective user financing, resistance from local and regional authorities is to be expected, so the government does not operate "free of opponents" but must expect internal resistance: Federal, provincial and local authorities can easily come into conflict as a result of divergent interests (Gawel 2005, pp. 180 f.)
Here, greater appeal is undoubtedly provided by traditional tax-based financing, where the fiscal illusion can be used to offer benefits in transport policy without imposing any concrete demands. Consequently, policy-makers rightly gauge user financing of public transport infrastructure as a highly delicate matter. For many years now the general passenger car toll has repeatedly appeared on the political agenda of individual ventures in Germany, but has to date failed according to the exact same resistance pattern. Political competitors, in particular, never miss the opportunity to use the fiscal illusion and the perception of burden to their best interests on consent markets.
For years, transport policy in Germany appears to be stuck between the Scylla of a growing lack of tax funding and the Charybdis of fierce resistance to fee-based financing. The transition to user financed PPPs, although clearly indicated by a fiscal and allocation theory, is being thwarted for political and economic reasons.

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c) PPP user financing and "bureaucrats"

In terms of political interests ministerial and planning bureaucrats are likely to be primarily interested, wherever possible, in enlarging their budget and competency without objection when deciding and implementing infrastructure measures. Restrictions through user financing, or even preference-guided infrastructure plans, are hardly likely to find favour here. A similar lack of interest is demonstrated by the loss of importance attached to private operator models, where infrastructure projects are planned, constructed and operated by private investors. In contrast, tax-based financing and the de-coupling of the revenue and expenditure sides of the budget process that typically goes with it offer ideal conditions for funding arrangements that are "unbiased" and free of objection from "financiers" (Birk/Eckhoff 2000, p. 65), and are particularly suited to accommodating the interests of the planners.

Of course, this picture is clouded by the ever more painfully clear limits of the tax state to supply sufficient funds, even for the maintenance of existing transport infrastructure. However, in terms of the fiscal aspect of merely extending the financial room for manoeuvre for the further expansion of the route network, even "bureaucrats" are likely to demonstrate interest in complementary user financing. Naturally, this is more a matter of providing additional funds for classical fiscal expansion than about changing the system (Gawel 2011).

VI. Final remarks

Decisions about PPPs (realisation, arrangement) are taken in the political arena and are therefore not theoretical optimisation exercises. The interests and resources of the actors who participate in the political decision-making process as well as the rules of the political process have a powerful influence on whether, in what areas, and in what form PPPs are realised. The distance between this output and solutions that are theoretically desirable given certain ideal goals (e. g., efficiency) and conditions can be referred to as *political bias*. Political bias can on the one hand result in too few PPP measures – depending on whether the political benefits and costs deviate from the social costs and benefits. Above all PPPs with user financing are likely to be held up; tax-financed PPPs on the other hand offer high political net advantages by circumventing traditional accounting budget and debt limits. The respectively selected budget rules (e. g., cameralistic or double-entry) and the form of enforcement control (purely political or constitutional control of compliance) affect the political cost-benefit calculation and thus the extent and direction of the political bias. As long as inefficient PPPs are realised for political reasons this can on the one hand be at the expense of the actual indicated public task fulfilment but also at the expense of efficient privatisation going unrealised.

Economists are mainly interested in efficiency losses, which are motivated by this bias. Inefficiencies do not just occur because – according to the public choice paradigm – the political process is regarded as a system of self-interest oriented individuals. Furthermore, agency theory and transaction cost theory show that as a result of power and information asymmetries even

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public agents who are oriented towards the common good make inefficient PPP contracts possible.

Political scientists, on the other hand, are interested in changes in statehood, particularly changes in the legitimation of decision-making about public tasks and the possibilities of democratic control. Here the PPP-mediated trade-off between reduced democratic control, but also reinforced market control, should be taken into account: The integration of profit-oriented private interests and the increased realisation of user financing at least provide prospects for increasing the efficiency of state activities (cost efficiency and preference-orientation). Whether the traditional democratic control of the conventional production of goods and services was able to guarantee a reliable link to voters' interests is at least doubtful. Here participatory decision-making structures and constitutional fiscal rules may offer a way out.

Political involvement has a considerable influence on the extent, design and success of PPP solutions so it is important that influences of this type be included in the analysis. A broader perspective of the political and economic barriers that stand in the way of successful PPPs is now needed: A unifying framework that has yet to be developed might cope with public authorities' (political) involvement in designing PPP arrangements and could provide a more in-depth insight into political decision-making about public services.

Zusammenfassung

Erik Gawel; Politische Treiber und Hindernisse für Public-Private Partnerships – Zur Rolle politischer Einflussnahme

Agency, Bürokratie, Vertragstheorie, Governance, Legitimation, Politik, Public Choice, Public-Private Partnership, Steuerstaat, Transaktionskosten, Verkehrsinfrastruktur, Nutzerfinanzierung, Verschuldung

Entscheidungen über PPPs (Realisierung, Ausgestaltung) fallen im politischen Raum und sind deshalb keine theoretischen Optimierungsaufgaben. Die Interessen und Ressourcen der an diesem politischen Entscheidungsprozess beteiligten Akteure sowie die Spielregeln der politischen Willensbildung haben entscheidenden Einfluss darauf, ob, in welchen Bereichen und in welcher Gestalt PPPs zustande kommen. Der Abstand dieses Outputs zu theoretisch unter bestimmten Zielvorstellungen (z. B. Effizienz) und Bedingungen wünschenswerten Lösungen kann als political bias angesprochen werden. Aufgrund des politischen bias kann es einerseits zu viele, andererseits zu wenige PPP-Maßnahmen geben: Vor allem PPPs mit Nutzerfinanzierungen dürften politisch gebremst werden; steuerfinanzierte PPPs bieten hingegen hohe politische Netto-Vorteile durch Umgehung von Budget- und Verschuldungsgrenzen des traditionellen Haushaltswesens. Die jeweils gewählten Budgetregeln (z. B. Kameralistik oder Doppik) und die Form der Vollzugskontrolle (rein politische oder auch rechtlich-konstitutionelle Kontrolle der Regeleinhaltung) beeinflussen die politische Kosten-Nutzen-Kalküle und damit Ausmaß und Richtung des political bias.

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Unter Zuhilfenahme von institutionenökonomischen Ansätzen (Public Choice, Transaktionskosten, Agency) untersucht der Beitrag Erscheinungsformen und Erfolgschancen von PPP angesichts des Einflusses politischer Rahmenbedingungen und eigeninteressegeleiteter Akteure. Darüber hinaus werden auch politikwissenschaftliche Aspekte berücksichtigt (Veränderungen von Staatlichkeit, insbesondere veränderter Legitimation bei Entscheidungen über öffentliche Aufgaben und Möglichkeiten demokratischer Kontrolle). Als Folge von PPP könnte sich ein tradeoff einstellen zwischen reduzierter demokratischer Kontrolle, jedoch gestärkter Marktkontrolle. Es zeigt sich, dass politischer Einfluss sowohl zum Treiber von PPP werden kann als auch zum Hemmnis für (effiziente) PPP-Maßnahmen. Eine Fallstudie zu nutzerfinanzierten PPPs im deutschen Fernstraßenbau zeigt exemplarisch die Herausforderungen durch politischen Einfluss.

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