

PUBLIC PRIVATE PARTNERSHIP BETWEEN EUPHORIA AND DISILLUSIONMENT. RECENT EXPERIENCES FROM AUSTRIA AND IMPLICATIONS FOR COUNTRIES IN TRANSFORMATION.

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Abstract

This paper analyses the arduous path towards implementing Public Private Partnership (PPP) as a governance mode increasingly ‘en vogue’ in many political programs worldwide. As current literature on PPP strongly features an Anglo-Saxon bias recent experiences from Austria with a continental-European legalistic Rechtsstaat tradition are presented. Based on our analysis of a recently failed PPP project we outline that beside factors put forward by rational-choice approaches the dynamics of such partnerships are also shaped by normative and cultural-cognitive factors as theorized by neoinstitutional approaches. We thereby understand PPPs not only as a distinct, innovative organizational arrangement but also as a policy tool with symbolic meanings and underlying premises. In the final part general implications regarding the relevance of these experiences for transformational countries are outlined.

Keywords: neoinstitutionalism, public goods theory, Public-Private Partnership, procurement, public management

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Introduction

During the last decade many countries have experienced an increasing interest in public private partnerships (PPPs), often touted as a new generation of management reforms overcoming deficits of earlier waves of privatisation and marketisation (see eg. Pollitt 2003, 53ff). They are equally promoted by governments, European Union Institutions (Commission, EBRD, EIB), international organizations such as the Worldbank Group, UNDP, UNEP and other actors with vested interests. The development of successful PPPs is seen as 'one of the most important challenges facing organizations in the public and private domain in the first decade of the new millennium' (Ham/Koppenjan 2002, 594).

A large and rapidly-growing academic literature on public private partnerships has evolved with considerable contributions from UK (eg. Lowndes/Skelcher 1998; Huxham/Vangen 2000; Grimshaw et al. 2002; Handley-Schachler 2003), the USA (eg. Davis 1986; Fredrickson 1997; Rosenau 2000; Savas 2000), Scandinavia (eg. Collin/Hansson 2000; Greve 2003) or the Netherlands (eg. Kouwenhoven 1993; Ham/Koppenjan 2002; Klijn/Teisman 2000 and 2002), and even an 'International Journal of Public-Private Partnerships' was founded in 1998. This literature is of very different disciplinary and theoretical provenience. Osborne (2000) distinguishes the following strands of PPP literatures: theoretical literature on the nature of organizational collaboration, public management literature, a public governance perspective, community-development literature and empirical literature describing the process and impact of PPPs.

Not surprisingly this popularity – dominated by experiences of Anglo-Saxon countries with a pragmatic 'public interest' administrative culture (Pollitt/Bouckaert 2000) – has also seized countries with a distinct continental-European 'Rechtsstaat' public sphere and a stronger public-law tradition. In Germany and Austria it has become popular to advocate PPPs and they have found their way into government programs and the academic discussion (eg. Budäus/Eichhorn 1997; Eilmansberger et al. 2003). Similar developments can be observed in CEE transformational countries with countries as Hungary, Poland and Czech being forerunner. The European Union regards PPP arrangements as 'particularly attractive for Candidate Countries of Central Europe'¹ and also in academic research these countries have found access (eg. Osborne/Kaposvari 1998; György/Vári 2000; Petzold 2002).

¹ Directorate-General Regional Policy: Guidelines for Successful Public-Private-Partnerships, January 2003, p. 6.

The paper starts with a review of current literature on PPPs. Diagnosing a prevailing dominance of rational-choice economic approaches especially in the public management literature and practice-oriented PPP literature (being promoted by the Worldbank) mostly with a focus on best-practices and implementation recommendations from Anglo-Saxon countries we put forward an institutionalist perspective. Based on an analysis of a recently collapsed PPP project in Austria we outline the possible value of such a perspective especially for countries with a general reluctance towards implementation of PPPs. The specific project analysed has been presented as 'showpiece for a public private partnership model in Austria' and 'the first of its kind worldwide'. Soon after its set-up in late 2002 various implementation problems arose leading to increasing tensions between the contract parties and in June 2003 the project was mutually terminated with both contract parties blaming each other and both announcing compensation claims. The paper follows the question why in spite of the high strategic relevance and expectations from both sides this PPP infrastructure project has collapsed so dramatically drawing on explanations both from rational-choice approaches and neoinstitutional theory.

PPP: an ambiguous concept with practical limitations

Undoubtedly PPP is a concept with high appeal (Kouwenhoven 1993) and enjoys the favourable 'vibes' as it promises a synthesis of the efficiency of the private sector with the involvement of civil society (Hood 2003). It has been pointed out that partnership ideas fit well into current discourses of a network society (Castells 1996) and 'public governance' implying a fundamental change in the role of government from provider to enabler and an increasing erosion of traditional sector barriers (Kickert et al. 1997; Ziekow 2002; Kooiman 2003). This new understanding of governance with a strong rooting in political science focuses on increased interdependencies between societal actors from all sectors (private, public, third) and civil society and the combination of their resources. Current connotations in the German academia are that of an 'activating', a 'negotiating' or a 'cooperative' state (Schuppert 2000) continuing a vivid political science governance debate in the 80ies (eg. Mayntz/Scharpf 1995). Partnerships similarly enjoy a very prominent position in contemporary public management reform discourses (eg. Osborne/Gaebler 1992; Budäus/Eichhorn 1997). The term is being used

not only in the Anglo-Saxon world but has also been adopted in many other countries worldwide turning it into a buzzword.

The downside of this popularity is a blurred and elusive phenomenon encompassing all kinds of cooperation between private and public sector from simple contracting-out to joint organisational arrangements or informal arrangements with multiple meanings (Linder 1999; McQuaid 2000; Pollitt 2003). Following the warning of Wildavsky (1973) 'that if a concept is everything, maybe it is nothing' there is the need to sharpen and qualify the notion. In this paper we will follow the understanding of Kouwenhoven (1993) defining PPPs as interactions between government and business actors in pursue of complementary goals. The cooperation is contractually formalised and intends to develop synergies whereby identities and responsibilities of the partners remain intact. PPP in that sense for most countries has to be understood as a new form of organizational arrangement or more broadly as 'organizational and social innovation' (Budäus et al. 1997, 6).

The international discussion currently is strongly focused on PPP models to meet public infrastructure investment needs with the UK Public Finance Initiative as a widely referred example. The main areas of implementation are transport, waste and water management but also telecommunication, health and energy with a very high variability of organizational arrangements firming under various BOTxx-models. The worldwide potential of PPPs for infrastructure investments was estimated up to US\$ 1,362 bn. till the year 2010 (Worldbank cited in BMWA 2004). They are also of special relevance for transformational countries in Eastern Europe with a lack of both the financial capabilities and knowledge for improving and renewal of a wide range of national, regional and urban infrastructure. The potential volume for these countries is estimated up to US\$ 40 bn. till 2010.

In contrast to the optimistic picture in political programs and official statements the picture gained by academic research on experiences with PPPs up till now in total is rather sceptical. The main message as summarized by Pollitt (2003, 57f) is that partnership is a very variable concept, often not well-understood and working reasonably well only under certain conditions. Although there are positive evaluations of cost improvements such as the widely cited report of the UK National Auditor's Office on the 'Private Finance Initiative', the consequences regarding broader evaluation goals such as quality, due process, accountability, equity, access and democracy, public participation in the

policy process or accountability are widely open. Short time cost benefits often seem to be offset by the long-term consequences in relation to these aspects and externalities. PPPs seem far less ideal in practice than the idea (Fredrickson 1997; Osborne 2000; Rosenau 2000; Handley-Schachler 2003; Klijn/Teisman 2003).

Also empirical research indicates, that in spite of all the euphoria practical implementation of PPPs is still sparse. The resulting project flow is concentrated mainly on a fairly small group of countries including the USA, UK, Ireland or Australia where it has resulted in significant capital investment (Bastin 2003; BMWA 2004). For countries such as the Netherlands (eg. Teisman/Klijn 2002, 198), Scandinavia (Collin/Hansson 2000; Greve 2003) or Germany (eg. Roggencamp 1999; BMWA 2004) surveys show that there is only a relatively limited number of cases where we can really speak of public private partnership in the sense above. According to Worldbank statistics the realisation of the potential PPP-investment volume varies strongly with more than 60% in North-America and Latin-America and the EU candidate countries at the bottom line with only 2% (cit. in BMWA 2004).

The gap between announcement and reality with regard to partnership as a governance scheme seems to be substantial especially in Continental Europe with a stronger public-law tradition (Teisman/Klijn 2000), a fact shared with most topics in the field of public sector reform.

Rational choice and institutionalist approaches

Looking for reasons of the current attraction of PPPs in spite of these critical empirical results we find a wide range of rationales that can lie behind partnership formation such as management reform and modernization, synergetic outcomes through a pooling of capacities, attracting private finance, increasing value for money, public legitimacy, risk shifting, downsizing the public sector or power sharing (eg. Davis 1986; Collin/Hansson 2000; McQuaid 2000; Kooiman 2003; Pollitt 2003). The rise of PPPs is argued on basis of fairly uniform and powerful key drivers such as internationalisation and liberalisation of markets, technological developments, and an increasing fiscal discipline imposed on governments making PPP a rational quasi-inevitable trend (eg. Budäus et al. 1997, 39f.). Much of the current debate couches the process of PPP reforms in a positive and apparently non-ideological language. Both for public and private sector actors the decision of entering a PPP is understood as a weighing up of possible benefits and possible risks against the background of their specific more or less conflicting self-interests.

The advantages of PPPs from a public sector view are argued to be an ease on financial burden for investments, increased efficiency, input of private sector know-how and experience, the creation of surplus value and innovative solutions, higher flexibility and increased acceptance and prestige. Possible negative consequences for public sector actors are described as substantive risks due to different market power, information asymmetries and private partners' superior knowledge, financial risks, a possible partner discontinuity, political risks (protests and loss of electorate support) and democratic risks (erosion of public interest and political primacy). For private sector actors the advantages are described as new investment and business opportunities, profit gains, access to public administration expertise, a reduction of long-term uncertainties, public contributions to uneconomic investments and improved image. The drawbacks are aside the normal construction and exploitation risks a profit-reducing consideration of public interests, higher transaction costs, a loss of autonomy, socio-political risks and a risk of political discontinuity.

We often find in PPP-literature the view of advantages in general tending to outweigh risks at least when there are the right organizational and procedural arrangements in place (Savas 2000; Bastin 2003; Handley-Schachler 2003; Pollitt 2003, 63). Based on mostly case-study informed analyses of the factors accounting for implementation problems practical literature (with their general strive for 'best practices') as well as academic literature therefore often puts attention to well-designed processes and organizational structures as conditions for partnerships and emphasizing the necessity of case specific solutions. The importance of clear goals and responsibilities, an efficient and fair sharing of risks, incentives, monitoring and political support within an enabling regulatory environment are described as critical success factors (eg. BMWA 2004).

Whereas most of these recommendations are based on case-study analysis they are often – explicitly or implicitly – theoretically informed from rational-choice approaches such as institutional economics, public choice and game theory (eg. Budäus et al. 1997; Savas 2000; Schaeffer/Loveridge 2002; Hart 2003). Based on a methodological individualism formation, existence and decline of governance structures like PPPs – with networks as one of the elementary forms of governance besides market and hierarchy (Williamson 1985) – are explained with reference to individual rationality at the micro level. Optimal arrangements have to take into consideration transaction

costs, information asymmetries between principal (the public sector) and agent (the private sector), incentives, the rules of the game, power structures, clear and comprehensive assignment of user rights and have to be based on individual case analysis. Typical problems of PPPs eventually leading to a collapse arise from the permanent problems of opportunistic behaviour and asymmetric information leading to problems of quality, hold-up, hidden-intentions and moral hazard. Game theory with policy processes interpreted as series of games (Axelrod 1984; Scharpf 1997; McQuaid 2000) regards the negotiations between the two partners as crucial element for the success or failure of PPPs and offers a wide range of general recommendations to foster cooperative behaviour.

In continental European countries the debate of PPPs is also characterized by a strong focus on legal aspects with a similar rational-choice moulding covering both possible barriers of the regulatory frame – eg. constitutional law, administrative law, tax law and procurement law – and the legal design of the specific contractual arrangement (eg. Budäus/Eichhorn 1997; Ziekow 2002; Eilmansberger et al. 2003). Based on the assumption of conflicting interests of the contract partners and the overriding public interest government has to safeguard its interests by adequate means of influence, control, incentives and sanctions. We find the common argument of an excellent and detailed contract being the primary condition for a successful cooperation.

To sum up the rational choice strand of PPP literature derives organizational arrangements like PPPs from the rationality of the individuals in exchange, each attempting to maximize his or her utility by exchanging resources. PPP arrangements are analysed as arenas in which these scarce resources are produced and allocated. Under the premise of individual instrumental rationality PPPs as networks of voluntary contracts are derived as solutions to problems of opportunism isolated from institutional or societal context.

In contrast, sociological neoinstitutionalism based on the pioneering work of Meyer and Rowan (1977) and DiMaggio and Powell (1983) with a similar strand in political science (March/Olsen 1989) puts its focus on the institutional environment of organizations composed of regulative, normative and cultural-cognitive structures or ‘pillars’ that provide coherence, meaning and stability. According to this theory individual preferences, organizational interests as well as

the repertoire of behaviours and social practices are shaped by this institutional environment. Institutions create powerful pressures for organizations to seek legitimacy and strive for social conformity through the adoption of legitimized templates of structure and action (DiMaggio and Powell 1991). Organisational structures appear to be institutionally influenced in ways which cannot be explained by an instrumental rationality of efficiency and competitive interaction between organizations.

Neoinstitutional theory thereby offers an explanation for the increasing popularity of PPPs in face of considerable implementation difficulties and critical evaluations of its outcomes. Meyer and Rowan (1977, 344) suggest that, in the absence of evidence to demonstrate the task-based efficacy of innovations, the primary motivation for adoption is to provide an account against new bases of assessment. Partnership and management practices are highly appreciated values in current Western culture, having achieved myth-like attributes in the sense of Meyer and Rowan (1977). The last decades have seen a general rise of managerial ideas also within the public sector based on a general conviction of a superior performance of private sector compared to public sector (eg. Sahlin-Andersson 1996; Clarke/Newman 1997; Townley 2002). Along this literature PPP can be understood as a legitimized template of structure and action demonstrating these strongly institutionalized values and increasingly disseminating through isomorphic pressures. It provides government with a new legitimacy suggesting modernity (Ziekow 2002, 270; Pollitt 2003, 58) and allows governments to replace the struggled notion 'privatisation' with the positively connoting 'partnership' (Budäus et al. 1997).

For analysing the dynamics of PPPs the neoinstitutional concept of institutional logics seems of interest. Friedland and Alford (1991) in their influential article stress the importance of understanding society as a potentially contradictory inter-institutional system whereby no institutional order should be accorded causal primacy a priori. Institutional logics are thereby understood as sets of 'material practices and symbolic constructions which constitute a field's organizing principles and which are available to organizations and individuals to elaborate' (1991, 248). They are cognitive maps, belief systems carried by the participants in a field to guide and focus their attention and give meaning to their activities; they specify what goals or values are to be pursued and indicate the appropriate means for pursuing them.

Economic forces impinge on organizations, but how actors interpret the meaning and the consequences of those economic forces is contingent on these institutional logics (Thornton 2002, 82). Within a relatively new focus on institutional change a number of neoinstitutional studies (eg. Greenwood/Hinings 1993; Brock et al. 1999; Thornton/Ocasio 1999; Scott et al. 2000; Thornton 2002) have highlighted the central role of institutional logics or similar interpretive schemes for the emergence of new governance structures or practices. They are a 'key to understanding organizational change' (Brock et al. 1999, 3) and new governance structures are largely based on 'changing logics leading the way' (Scott et. al. 2000, 174).

As the central characteristic of a PPP is an interaction of actors from different domains – public and private sector – we can assume an encounter of two distinct and competing institutional logics. Public sector forms a distinct area of institutional life in the sense of an organisational field (Sahlin-Andersson 1996) and a considerable amount of inquiry within the field of public administration has been devoted to fundamental differences compared to the private sector (eg. Dahl/Lindblom 1953; Rainey 1997). In German political science there is a long tradition (Luhmann 1969; König 1997) elaborating a functional distinction of relatively independent subsystems and spheres of action (state vs. economy) seen as fundamental characteristic of modern society and each following its own principles of rationalization (*Basisoptimalität*). Although there undeniably has been a trend towards convergence through the introduction of management concepts, ideas and language to the public sector along a broad movement often labelled 'New Public Management' (eg. Hood 1991) two fundamentally different institutional logics still seem to be in place. In non-economic literature on PPP we find a broad awareness of such sectoral differences variously described as different values (Grimshaw et al. 2002), cultural orientations (Ham/Koppenjan 2002), identities (Schuppert 2000), assumptive worlds (Dixon et al. 2004), sectoral orientations (Reijneers 1994) or logics (Rosenau 2000, 220ff).

Rational-choice approaches are also aware of such sectoral differences treating them as different motives, goals and interest and thereby implying a high level of intentionality, consciousness and rationality (eg. Budäus et al. 1997; Schaeffer/Loveridge 2002; Hart 2003). An institutional understanding of PPPs in contrast draws attention to the deeper, often unconscious cultural and institutional differences between the public and private domain being a constant

and serious threat to the success of PPPs. Many of the currently observable difficulties of PPPs and the high reluctance in many countries in our view are related to such competing institutional logics.

The dynamics of competing institutional logics and their relevance for understanding changing governance structures have been analysed in studies often focusing on professional fields with a previous professional logic increasingly superseded by a managerial logic (eg. Greenwood and Hinings 1993; Cooper et al. 1996; Brock et al. 1999; Thornton/Ocasio 1999; Scott et al. 2000; Kitchener 2002). This research confirms that reconciling competing institutional logics is notoriously difficult and instable and the dynamics reveal the complexity of strategic responses to institutional processes. Cooper et al. (1996) explored the emergence of hybrid organizational forms based on a mix of professional and managerial logics and warned that it mainly produces 'unstable' organizational forms. We regard institutional logics a viable concept for understanding the dynamics of PPPs which can be seen as struggles of claims over the appropriate relationship and ranges of jurisdiction of contradicting institutional logics within a 'twilight zone' of a public and a private sector (Collin/Hansson 2000).

An Austrian case study on a collapsing PPP

Neoinstitutional theory stresses the importance of institutional environments and institutional logics varying from one country to another (Friedland/Alford 1991, 243). Regarding Austria (similar to Germany) we would expect the diffusion and implementation of PPP being influenced by its legalistic Rechtsstaat tradition with a relatively strong differentiation of public and private sector and a public sector with an overriding juridical and political rationality as has been described elsewhere (eg. Holzinger/Oberndorfer/Raschauer 2001; Hammerschmid/Meyer forthcoming). Naschold (1996) described the Austrian public sector as traditional bureaucratic regulatory model with only a modest use of market instruments and called it the 'home of legalistic administration'.

Based on this institutional context we see major sectoral differences in Austria regarding the various dimensions of institutional logics (Thornton/Ocasio 1999; Thornton 2002) as presented in table 1.

Table 1: Public and private sector institutional logics

	public sector institutional logic	private sector institutional logic
Identity	sovereign state backed by the power of coercive sanctions and full responsibility for 'state tasks'	business organization within a competitive environment
legitimacy	based on democratic representation, public interest and legality logic of appropriateness	based on market and business success logic of consequentiality
authority structure	unitary and hierarchical system of authority based on a comprehensive and broad political-administrative accountability and a tight hierarchy of rulings	contractual system based on managerial autonomy under authority of CEO and company owners
focus of attention	primacy of politics and balancing conflicting interests	primacy of private good and monetary criteria such as profits or efficiency
governance mode	governance based on inputs, procedural rules, bureaucracy and professionalism	governance based on results and performance measurement
Strategy	strategy focused on stability and continuity	strategy focused on growth and expansion
investment logic	strongly procedural logic of investments	market return as primary logic of investments

In the terminology of March and Olsen (1989, 25) the public sector with its strong legal emphasis is dominated by 'obligatory action' and a 'logic of appropriateness' similarly to Luhmann's 'legitimacy through procedure' (1969) with a terminology of duties, procedures and obligations often oriented towards the past. The private sector with its overriding economic and management emphasis is dominated by 'anticipatory action' and a 'logic of consequentiality' with a terminology of results, efficiency and managerial competency stronger focused on future developments.

A central methodological question is how to chart institutional logics as they cannot be directly measured (Thornton/Ocasio 1999, 807). Existing studies indicate a variety of approaches and indicators (eg.

Elsbach 1994; Thornton/Ocasio 1999; Scott et al. 2000; Townley 2002). We assume it possible to find access through the verbal accounts rationalizing the establishment and development of the PPP. Institutional logics become manifest when parties try to explain to themselves or justify to others the selection of specific means, ends and the linkage between them especially in case of failures, which call for extended legitimating work (Meyer and Rowan 1977, 350; Fligstein 1990, 11).

For our analysis we therefore took a closer look at the participating actors' claims and arguments for the partnership, their rationalization of upcoming problems and the final project collapse and thereby hope to get a better understanding of the specific institutional logics and values at work. This explorative analysis is based on the media coverage of the HERAKLES-project² including all articles, press releases and political statements in the period 2001 till 2003 (found with the textmarker 'HERAKLES' and/or 'TopCom' as the name of the specific PPP arrangement). The sample consists of 269 articles. We also included parliamentary materials as we can expect a more direct link to the specific public sector institutional logics from this material.

Rise and fall of the HERAKLES project

The HERAKLES-project was initiated by Austrian federal government to set up an Austrian-wide harmonized bug-proof security radio network for all 'flashing blue light organisations' (police, fire brigade, ambulance, army). The system should guarantee quick and coordinated action among different public safety and security organizations at national disasters and overcome existing shortcomings of a quite outdated (analogous) communication landscape. The new system should be based on TETRA (Terrestrial Trunked Radio) as the European standard for digital professional mobile radio specified by the European Telecommunications Standard Institute (ETSI) as a feature-rich communication system (Dunlop et. al. 1999).

The project under responsibility of the federal government was coordinated by the Federal Ministry of the Interior (MoI) with strong involvement of the Ministry of Defence and conceptualized as an PPP with a total capital expenditure estimated to range between EUR 250 and 370 millions. It was designed as a concession contract (Auftrags-/Betreibermodell) on a 15 years concession base where the private sector consortium designs, builds, finances and operates public service

² Fictitious names

infrastructure with public sector's involvement limited to output specifications, contracting and facilitation (ie. a build-own-operate-transfer model). The operator should recover the capital expenditure through charges paid by the network users. Gaining private capital along a strict federal budget consolidation programme was an important driver for choosing a PPP-design. The HERAKLES project attracted a high level of political and public attention as indicated by the strong presence in public media. It also had some European-wide relevance as being the first nation-wide TETRA-project in Europe.

In course of a European-wide tendering process in September 2001 the MoI invited companies to formally express their interest. After a first evaluation three consortia remained on the shortlist, all of them Austrian enterprises (mostly with considerable state influence) each around an international technology provider. Shortly after, the Austrian government formally approved the HERAKLES project and presented its features to the public. On the same day the shortlist was published and the successful applicants were invited for a tender.

During the bid phase all tendering consortia strongly intensified their public relation campaigns communicating repeatedly their expectations regarding the financial modalities. They stressed the importance of blue-light organizations – with the Laender (the state level in the Austrian federal system) as main financier – and other commercial users (eg. transport and logistics enterprises) to be included in the net to allow a commercial break-even.

On April 5th 2002 the HERAKLES project was awarded to TopCom³, a joint-venture of the Austrian representation of a multinational telecom supplier, Vienna community services and the largest Austrian telecom operator. The decision was argued mainly on a business case with the lowest annual costs for the federal government. A complaint of a defeated consortium at the federal authority of appeal led to legal arguments even reaching the constitutional court and causing a delay of three months. In July 2002 the claim was refused and the contract was finally awarded leaving technical specifications, tariffs and localities open for later agreement. MoI gave approval to a commercial use of the net under condition of clear separation between public and commercial users, making a second frequency – to be approved by the public telecom regulator – necessary. TopCom on the other side agreed

³ Fictitious name

to fixed annual user fees for the 24,500 users guaranteed by federal government, and the agreement of additional users (the Laender 'blue-light' organisations) joining the network according to the business plan. The first phase of HERAKLES was scheduled to be already operational by spring 2003 and the completion of the entire system with about 1,300 transmitting aerials was planned for 2005.

In October 2002 TopCom made two important organizational decisions. It increased its number of shareholders selling shares to a major regional bank and the largest Austrian energy provider, providing it with strongly needed financial resources. At the same time a widely known manager with the reputation of being a 'tough turnaround manager' was announced as new CEO. By the end of October TopCom faced an important setback in its plans for a commercial use of the net. The public telecom regulator refused to issue the necessary license substantiated with the bid being below the minimum-offer.

TopCom's activities at that time were focused on acquiring 'blue-light' users at the Laender-level – crucial for the commercial viability of the project –, though not proceeding very successfully mainly due to severe reservations of these potential users towards high costs and commercial openness.

In November the official project launch was presented in a joint press conference by all partners announcing details of the agreed business plan. Both partners were committed to an additional commercial network, although not prior to 2005 due to the still outstanding licence. The core security-network rollout, however, was still announced to be on time.

The next months were shaped by upcoming complications: TopCom's – in the end unsuccessful – attempts to gain additional shareholders; blue-light organizations at Laender level rejecting a commitment towards the net, making it dependent on a financial guarantee by Laender and local governments; and negotiation processes severely complicated by the necessity for TopCom to negotiate the conditions with a broad range of blue-light organizations, Laender and local governments separately.

By end of March first messages appeared in the media, that the MoI already was assessing possibilities of an exit-scenario due to fears of a rising budgetary burden as a consequence of the small number of acquired HERAKLES users. Estimates of only 40,000 final users at this time were in stark contrast to the 120,000 potential users estimated just

four months earlier making a rise of fees necessary for TopCom.

In April 2003 a test operation in selected regions was commenced finalizing Phase 0 of HERAKLES in time with 90 radio base stations and already EUR 40 mio. invested. The financial stress on TopCom could be eased by a new partner from the banking sector entering the joint-venture.

At the same time the MoI openly criticized TopCom for the lack of user contracts with blue-light organizations. The MoI pointed out TopCom's contractual obligation to 'actively acquire blue-light organizations' and mentioned the possibility to exit the contract for the first time. A further critique raised related to technical difficulties during the network rollout for the Lower-Austrian red-cross organisations resulting in their threat – as the largest ambulance service of Austria – not to join the project. In the media the project was now described to have turned into a 'nightmare-project'. Public discussions about HERAKLES became more and more frequent from May 2003 on with parliamentary opposition accusing the Minister of 'serious failings' and 'chaotic conditions'.

In May 2003 parallel to a request of TopCom for re-negotiations to solve the fee-dispute the MoI issued an official letter to the TopCom management, accusing them to 'act unprofessionally', 'not keeping time schedules' and having 'submitted insufficient project plans'. TopCom was formally given a deadline to propose a solution for the project shortcomings and a guarantee for keeping the project on track. The mutual accusations between TopCom and MoI increased, focussing on technical shortcomings being argued by TopCom as 'normal' difficulties of complex projects. TopCom required extra-arbitration negotiations and a last attempt for an amicable solution was started in June.

On June 26th 2003 both partners, TopCom and MoI mutually cancelled the HERAKLES contract simultaneously. The TopCom shareholders lamented 'a loss of face for Austria and the Ministry' not willing to stick to its contracts and blamed the MoI of 'destroying this innovative form of financing'. A participating bank being a major financier of Austrian infrastructure projects identified 'dangerous signals for any other PPP project in Austria' due to the lack of trust in the state's willingness to keep contracts. TopCom and its owners also announced a damage suit – postponed later – claiming a loss of about EUR 100 mio. Only a few days after the contract failure, TopCom announced almost all 90 employees for dismissal and the CEO announced his resignation in July 2003. In one of his last statements he called the HERAKLES project

his 'mission impossible'. The political opposition also acted sharply upon the failure and placed a parliamentary request and announced to consider further parliamentary means, ranging from simple request to a direct charge of the Minister.

The MoI, however, confirmed its willingness to implement a nationwide common radio network for all blue-light organisations. In October 2003 it issued a new tender under a changed project name and restarted the tender process. The project was back to the start with the question of the technology to be chosen and the possibility of a commercial use still left open. Private sector interest in the project was continuously high with five consortia announcing their interest.

Explaining and accounting the collapse

Complexity, scope and political relevance of the HERAKLES project make an analysis of possible reasons for the collapse a quite complicated task due to a broad spectrum of interrelated causes difficult to disentangle and with quite different interpretations. Following rational-choice approaches the collapse clearly seems to be related to conflicting interests of the partners, principal agency problems, insufficient contractual agreements and organizational and procedural deficits. Especially the explanations and accounts for the collapse brought forward in the media related to a rational-choice instrumental logic.

In the initial stage the complementary goals seemed to be of primary importance for both partners but with the project progressing and becoming more specific the underlying discrepancies of interests and strategies became increasingly relevant and visible. The main conflict line built up on the private partner arguing the business case and demanding higher fees due to lacking interest of the blue-light organizations vs. the government – with budget consolidation as their main policy goal – insisting on the agreed user fees. Further conflicts constantly present related to the amount of technical features and the openness of the system for commercial users in trade-off with government's security goals. These conflicts led to mutual attempts of shifting economic and political risks to the other side. A clear separation of risks along principles such as cheapest cost avoiders or cheapest insurer in practice was hardly operable as both political risks (number of participating organizations) and technical risk (integrating infrastructure and operating technique) in the HERAKLES project often proved to be dependent on both partners' activities.

Tensions did not only arise from conflicting interests between the public and the private partner but also were strongly related to inter-partner disparities becoming a central instability factor for the project. On the government side three Ministries involved pursued different interests with the Laender also having considerable influence. Putting these requirements together often resulted in contradictory demands and priorities put upon the private partner. On the other side TopCom as a joint venture also was confronted with conflicting interests of its various shareholders. The tensions within the consortium increased almost proportional with the difficulties during the project rollout. In the words of Rowe and Devanny (2002 cit. in Pollitt 2003) 'partnership working consisted of the temporary suppression of mutual loathing in the interests of mutual greed', both between the two contractual partners but also within these two partners. This complexity of a multi-actor network also reveals a notorious stumbling block for following rational-choice suggestions demanding a clear picture of partners' goals and their compatibility for a successful PPP.

A similar fundamental difficulty relates to designing an adequate relational contract. Although high priority given to legal aspects with the contract consisting of more than 2,500 pages HERAKLES clearly revealed the limitations of contractual governance. Due to a wide range of contingencies and technical complexity the contract awarded had to leave technical specifications, tariffs and localities open for later agreement opening room for principal-agency problems. A reference to the common European wide TETRA standard was an obvious attempt to control the problem of 'hidden characteristics' and to avoid a hold-up by a technical superior partner, but proved not to be sufficient. Consequently the partnership increasingly led to hold-up situations with one partner being dependent on the other partner's efforts (eg. the private partner needing public sector efforts regarding technical infrastructure or the acquisition of blue-light organizations) and the second using this to improve his position. The contract itself also contained an intrinsic conflict potential in the view of TopCom. It stated as primary target the implementation of the new system with specific requirements in terms of functionality, coverage and availability while at the same time demanded a broad set of technical preconditions and value-adds not necessary for a functioning of the system and distracting TopCom's resources from the main target.

Being aware of the impossibility of all-inclusive contracts (eg. Williamson 1975; Hart 2003) rational-choice approaches typically suggest

complementary procedural and structural measures whereby HERAKLES made clear how difficult such recommendations are to follow. The PPP contract comprised an agreement, that the partners had to jointly define and periodically refine the implementation schedule within the range of contractually defined milestones. A realisation was strongly impaired by the existence of several subgroups and working teams – quite typical for the Austria political culture – resulting in a problematic fragmentation of project management.

Public choice literature also sheds light to another central problem of HERAKLES related to the specific characteristics of the product contracted. The main goal – provision of secure radio communication for blue-light organisations – is a typical club good: Each organisation joining the network is provided with its services and all partners profit from the generated economies of scale as settled in the subscriber- and feature-sensitive tariff model. The principle motivation for the project itself – the increase of public safety and security in Austria – represents a typical public good. The exclusion of an organization from the network usage, although in general feasible by contract, immediately would be rated as an insult against public security. This considerably strengthened the position of hesitating blue-light organizations, expecting that they anyhow would be provided with the service due to public necessity making the business plan infeasible and starting the vicious cycle of unsuccessful acquisitions and higher fees for rent.

Rational-choice approaches unquestionably offer a lot of interesting insights widening our understanding of PPP implementation dynamics but leave central questions open. The obvious inability of both partners to tackle upcoming problems, an ossification of positions and the escalation of events in spite of the high stakes for all partners involved seems difficult to explain from a perspective of individual rationality.

Our analysis indicates that the main dynamics of the whole HERAKLES project point to quite fundamental tensions. Although actors came together to undertake collective action in the beginning, this action did not result in a collective outcome. Joint efforts and integral character became disconnected at a later stage. Different institutional logics underlying the cooperation may help to understand the relentless dynamics towards escalation – a broad spectrum of safeguard measures to work towards a solution acceptable for both parties not being used at all – without any of the involved parties profiting from the escalation and the fierceness of the mutual claims in the end (with the TopCom CEO even blaming ‘the mad Minister’).

For getting access to institutional logics we followed the actors' accounts recommended in neoinstitutional research. Especially the accounts in the political arena did reveal a specific public sector institutional logic. In the parliamentary debate where the Minister had to justify the collapse the discussion mostly evolved around the appropriateness of procedure and the Minister's political accountability whereas the business perspective was hardly mentioned. Central topics for parliament were the correctness and appropriateness of the tendering process, the formal involvement of Laender and Ministries, project management, budget estimations, information policies and the signed contract. The parliamentary discourse to a strong degree mirrored central aspects of a specific public sector institutional logics stressing 'legitimacy through procedure' with a terminology of duties, procedures and obligations focussing on past events

The private sector partners' accounts in the media debate also pointed to an incompatible institutional logic of their public sector counterpart. They argued their withdrawal with respect to a 'responsibility for proper commercial activity' resulting from the MoI not being open for a market logic and ignoring the business case. They saw their state partner violating his contractual obligations to contribute to the partnership especially by delaying necessary decisions and thereby increasing project costs. In their view also intentional indiscretions via the media had made the acquisition of new customers and the project financing activities impossible.

Interestingly in the media debate the collapse was mostly accounted on basis of a managerialist-technical rationality even by the MoI, seeming in contradiction to a specific public sector logic to be expected. We interpret this as private sector logic obviously enjoying higher legitimacy in the public debate with the MoI being able to pick up this logic at least on a rhetoric level. The MoI's argumentation for termination focused on the partner's technical shortcomings during the test stage, project management deficits, considerable delivery delays in spite of extensions, 'highly unprofessional proceeding' regarding customer acquisition or technical checks and financial problems on the partner's side.

The process dynamics as a whole indicate a general blockade towards changing role conceptions and domain demarcations and a fundamental problem of mutual understanding. The private sector actors seemed to regard government as a hierarchical organization with the necessary capabilities for managing and enforcing project decisions in contrast to the fragmented polity system. Hesitations were dismissed as 'political,

tactical squabble' of 'organizations used to be subsidized' which could be overcome by lobbying and marketing. And upcoming problems in the view of the CEO of TopCom just made clear 'the necessity of tough management'.

On the other side government actors seemed to lack the willingness to develop a partnership scheme. On basis of political primacy and of a self-understanding as guardian of the public interest government actors appear in the role of the principal. Hierarchy is central for the representative democracy model and similar to other country experiences (Ham/Koppenjan 2002; Teisman/Klijn 2002; Johnson/Osborne 2003) government seems unwilling to abandon their formal superior position. An exchange of information between actors and a willingness to look for solutions on a mutual basis as demanded by PPPs is barely consistent with such a logic. This causes a continuous threat for the business partners through the imposition of undefined community service obligations or hostile and unprofitable conditions (Dixon et al. 2004), which clearly became visible in the HERAKLES project. After the collapse the private sector partner criticized a missing commitment of the Ministry to contribute to a partnership and describing the Minister as 'stubborn' or 'egocentric'.

A rigid political accountability according to the Rechtsstaat is another feature of public institutional logic playing a role in this aspect. PPP as an increasingly legitimized organizational arrangement allowing to transfer risk away from the contracting public sector seems to attract politicians. Having to justify the HERAKLES project in Parliament the Minister could reject many accusations with a simple reference to the contract partner's responsibility. A general preference of public contractors in for concession contracts avoiding joint decisions with problematic joint responsibility has been observed for Austria (Winner 2003).

The dynamics of the HERAKLES project thereby reveal a struggle of claims between private and public sector institutional logics. They became manifest in quite different strategies with MoI trying to control the substance of the project and minimizing political risks whereas in contrast private actors' strategies followed financial viability as the overriding goal. Whereas in other contexts (eg. Fredrickson 1997; Ghere 2001; Grimshaw et al. 2002) PPPs seem to be strongly underpinned by norms and rules of private sector management suggesting the necessity of a stronger relevance of the distinctive qualities and ethics of service provision for Austria we see the public sector logic in a stronger position due to differential access to forms of power. Similar to Dutch

experiences (eg. Ham/Koppenjan 2002; Teisman/Klijn 2002) we observe a dominance of public sector actors in the HERAKLES project. In case of HERAKLES the partnership did not reveal egalitarian structures contrary to their claim, which seems to be a general phenomenon (Hood, 2003, 60f). According to Dixon et al. (2004) this poses considerable challenge for business actors to arrange with public sector logics and develop adequate communicative competencies. Regarding both aspects the management of TopCom obviously was not sensitive enough.

For a successful partnership actors from each sector are required to adopt characteristics and points of view that once defined and stabilized the identities of their counterparts (eg. Linder 1999, 36). But at the same time they still have to comply with the existing institutional logics in which they are embedded and decision-making can be expected still to be based on self-referential logics rather than joint policy making (Klijn/Teisman 2003). For private enterprises financial viability is the primary legitimacy whereas for government political appropriateness and public electoral support is overriding. The HERAKLES experiences revealed clearly how difficult it is for the partners to cross their own perspective and that a lack of knowledge and understanding for the partner's different logics puts a serious threat on successful cooperation. Dixon et al. (2004) warn that PPPs as a consequence can involve 'an unresponsive discourse or a dialogue of the deaf based on mutual non-understanding' polarizing contending perspectives in a never-ending battle to win over public opinion. This seems what has happened in the HERAKLES case leading to a collapse within a very short time period and harsh mutual accusations mostly over the public media.

Conclusion

The way towards establishing public private partnerships as new governance structures seems to be larded with stumbling blocks as our analysis of the dynamics of the HERAKLES project has clearly demonstrated. A considerable part of the problems and tensions can be well explained as mere problems of organizational and procedural design rooted in individual rationality and competing interests as put forward by rational choice approaches. The collapse might be argued with HERAKLES being quite an "extreme" case of a PPP with very high complexity and special features of a public and private good but experiences in other countries (eg. Belgium, Finland) proved that very similar projects can also succeed. Along a general and durable reluctance

towards establishing PPP arrangements in Austria (eg. Beirat 1998) these experiences are less exceptional but more indicative of a general pattern. As our paper did outline the dynamics of PPPs are also strongly shaped by regulatory, normative and cultural-cognitive factors as theorized by neoinstitutional approaches. We thereby have to understand PPPs not only as a distinct, innovative organizational arrangement but also as a policy tool with symbolic meanings and underlying premises. Neoinstitutional explanations put attention to regulatory barriers based in the institutional context (eg. fragmented polity, regulatory framework, procurement law) and normative pressures explaining high attractiveness in spite of critical experiences. They also allow capturing unconscious cultural-cognitive institutional barriers relating to different institutional logics of the partners at work, which will also considerably vary between different countries. As we have shown an institutionalist perspective sheds a quite sceptical light on the establishment and successful work of public private partnerships.

The sceptics about the success of PPP get even greater weight for deployment in transformational countries as the environmental conditions during transformation impose additional threats for intrinsically less “robust” organization forms and policies. Despite this threat increasing importance is to be expected in these countries. Based on our literature review we saw a trend of PPPs becoming a key tool of public policy for the next decade in most countries. The specific relevance for Central and Eastern Europe transformational countries comes from much a higher demand on investment-intensive fundamental infrastructure projects than in Western Europe. Highways, railroads, water and sewerage services, energy, as well as public utilities and social infrastructure are among key challenges to be solved by most of the governments. Thereby, conventional financing of these projects out of central budgets goes often far beyond the capacity of the public sector. Consequently, this increases the pressure to explore innovative ways of project realization. Under this pressure PPP is becoming an interesting approach whereby international institutions increasingly playing a crucial role as promoters of PPP. The European Union already expressed its willingness to provide funds in the context of PPP arrangements (eg. within the pre-accession facilities ISPA, SAPARD) and has published “Guidelines for Successful PPPs”. Besides being a central mean to improve infrastructure and the provision of public services, PPP could also play an important role to develop a civil society in transformational countries, especially at local community level (Osborne/Kapsovári 1998).

Considering the experiences with PPP in Romania, we can see a variety of project attempts in various fields of infrastructure until now. Starting with the first approaches of such kind (e.g. the EBRD-launched “Apa Nova” project for water provision), the number of projects under the label PPP has tremendously increased. Mentionable is, for example, the concession-model approach for the Constanta’s municipal water provision and wastewater services, initially supported by EU via ISPA funds. An extension of this project for the overall county is currently in tendering phase. In the IT&C field the project for the County Council of Iasi should provide local administration executives on-line connection to the County Data Base in order to render a faster, more reliable and accurate communication inside the system, a better service to the citizens and an integration with other e-Government systems on the horizontal and vertical level. A very remarkable project due to its social dimension is the model program to control pediatric HIV/AIDS within a PPP between the Romanian Government and an U.S. based pharmaceuticals giant, by providing universal access to important antiretroviral AIDS medication.

Numerous position papers and statements have been issued from many players of Romanian political, academic and financial scenery, stating the imperative involvement of private capital as a precondition of infrastructure modernization. Increasingly, political commitments find their way towards implementation: fewer into legislative acts, more into conferences, think-tanks and international work-groups. However, though the number of serious projects is increasing, we fear that the term PPP enjoys many times only the aforementioned favourable ‘vibes’ of modernity, being rather a tool of political advertising than a thorough reform agenda.

A wide range of recommendations regarding the proper organizational arrangement, contract management, financial support and management issues is influenced by the rational-choice theory stream. They recognize disparities of partners as the central factor of instability, increasing with the number of partners. In our research, however, we revealed problems and limitations of such recommendations, coming from the missing transparency of goals and interests, the problem of incomplete contracts and the ambiguous separation of risk among the partners.

Thus, we consider institutional aspects as equally important for the stability of PPP. They must be embedded into the regional and national context reflecting the nationally varying institutional logics. There is a

vital necessity to include experiences from failed projects, rather than the pure focus on “best-practices” in contemporary literature.

Whilst global pressure encourages PPP, the basis in transformational countries is far less established. Political systems and culture may act as considerable obstacles due to the fragmentation and the lack of appropriate marketization of public services. Moreover, a strong and self-confident civil society is not yet thoroughly established. The Government Ordinance 16/2002 set an important step towards a PPP-enabling legal framework in Romania, setting forth guidelines for the establishment of PPP and conceiving it as a distinct contractual concept. But PPP requires much more for its success. It requires a new culture towards cooperation, an institutional environment to foster mutual interdependence between public and private circles as a precondition for changing the climate into one more favourable towards PPP. Efficiency improvement objectives associated with PPP models normally do not figure prominently in politicians’ considerations, outsourcing public debt and investment being the main motivation. Quite often for Austrian politics PPP seems hardly be understood as new governance mechanism but merely as practical way to fund public infrastructure investment despite budgetary limitations and to evade the strict Maastricht criteria (Bastin 2003, 11ff).

In Austria, the current institutional rules, roles and habits, based on a traditional representative democracy and a fragmented policy system did often not fit with the cultural demands within a PPP. This might be expected in transformational countries as well. The general blockade towards changing role conceptions and domain demarcations, and the fundamental problem of claims between the private and public sector institutional logics becomes manifest in different strategies. Successful actors in a partnership are required to adopt characteristics and viewpoints, that once defined the identities of their counterparts. The lack of knowledge and understanding for the partner’s different logics, however, puts a serious threat on the cooperation. Moreover, it is a considerable challenge for business actors to arrange with public sector logics and, hence, develop adequate communication competence. The governmental actors, on the other hand, often lack the willingness to develop a partnership scheme, which forces them to give-up a major portion of their legally granted power. It is, therefore, vital to incorporate the specific cultural and mentality aspects, to conduct a “cultural due diligence” analysis. When dealing with the public, an adequate balance between transparency and confidentiality must be achieved. An important issue is trust when entering into a PPP, bringing about mutual respect and adaptation (Kooiman 2003, 102). The problems and

mechanisms to gain and maintain trust are approached extensively in the contemporary PPP literature (e.g. Klijn/Teisman 2000 ; Huxham/Vangen 2000).

Our institutional perspective within this research points at the importance of actors being tolerant against other actor's identity and their different institutional logics. Keeping the partner's identities intact becomes central to the partnership's effectiveness, commitment and sustainability (Brinkerhoff 2002). The maintenance of identity is the added-value of PPP: Partnerships with actors from different sectors are pursued, albeit these actors have some unique features to offer, be it resources, skills, relationships or legitimacy. If these organizational identities get lost, the organization loses legitimacy in the eyes of its defined constituencies and, consequently, its effectiveness wanes (Brinkerhoff 2002). Partners, however, who embrace the normative dimensions of a partnership can promote their perspectives even in an instrumental language, though remaining consistent with and committed to their mission, core values and constituencies.

Romania seems to be on the right track in developing the basis for the creation of public private partnerships. But as we noted before, there are more elements involved in creating successful PPPs than just passing a law – albeit one that is still evolving. There needs to be an increased level of understanding throughout the administration as to how PPPs are structured for success and how to induce foreign investors to participate in them. The public authorities in Romania must overcome their innate suspicions of PPPs, and prove to investors that Romania has the managerial ability to effectively perform its partnership tasks. Most significantly, Romania must demonstrate to the international investment community that PPP investments will be based upon an impartial and transparent procurement process, and result in a secure and profitable return to investors. The right balance of a clear economic orientation in accordance with rational-choice approaches and permanent consideration of different institutional logics and identities might be vital for the future success of PPP.

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