

Berlin referendum directed against the Senate

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On Friday, April 18, a Berlin citizens' group, the "Berlin Water Table," lodged an official appeal with the Berlin constitutional court against a decision made by the city Senate, which in the beginning of March had turned down a request from the group for a public referendum on the issue of the complete privatisation of the city's water supplies. The Berlin Senate comprises a coalition between the Social Democratic Party (SPD) and the Left Party.

In a press release dated April 18, the citizens' group accused the Senate of defending the interests of the energy companies RWE and Veolia in refusing to allow a referendum. They said the Senate was not concerned with the rights of the population, consumers and voters, writing: "There was no consideration given to the conflicting interests of the public and those of the companies."

The Berlin Water Table describes itself as a "local network" of engaged citizens intent on reversing the partial privatisation of the Berlin water supply in 1999. Nearly 10 years ago, the Senate, which at that time consisted of a coalition between the Christian Democratic Union (CDU) and the SPD, sold off 49.9 percent of the Berlin water supply company to the energy companies RWE and Veolia—thus denationalising an important segment of the power supply.

The conditions of this privatisation are laid down in secret contracts. As the first step towards reversing this privatisation, the citizens' group is demanding the full disclosure of these secret contracts. To this end, a referendum was organised entitled "No Secret Contracts—We Want Our Water Back." The organisers of the action were able to collect 40,000 signatures in a short period, although only 20,000 signatures are required to enforce a referendum.

According to the constitution for the city-state of Berlin, referenda can be requested in order to pass, change or waive any law that is of legal pertinence for the state of Berlin. The law is then directly put to a popular vote, unless the measure has already been passed by the Senate.

The citizens' group has made clear in its referendum

documentation that the proposed privatisation contract requires bidders to reveal the details of secret contracts when an appropriate law applies. The aim of the referendum was to ensure through democratic means that such a law be enforced through a popular vote.

Although the coalition contract signed between the SPD and Left Party in 2006 expressly calls for the renationalisation of the water industry, the Senate still rejected the request for the "No Secret Contracts" referendum.

The Berlin water industry is one of the biggest water supply enterprises in Germany and supplies the citizens of the German capital with water for drinking and waste disposal. Following the reunification of Germany in 1990, the water supply in the divided city was unified into a central supply system.

In 1994, the water industry was converted into a public law institution in order to prepare the way for privatisation. Then, in 1999, the German company RWE and the French company Veolia Water bought 49.9 percent of the public law institution and a corresponding share in the Berlin Water Holding Company (via direct shares). Further privatisation of the share of the water company remaining in the hands of the state of Berlin is entirely possible.

The path to such privatisation is laid down in an article titled "Privatisation in the Manner of Berlin," which appeared in the magazine *Blätter für deutsche und internationale Politik* (September 2006). The article describes the way in which private investors can fully take over the water supply step by step. This procedure is highly controversial because the German constitution demands a chain of democratic authentication (GG, article 20) for any such takeovers involving state-owned property.

Irrespective of the fact that the Berlin constitutional tribunal gave its seal of approval to the partial privatisation in the autumn of 1999, it is now clear that the measure was directly aimed against the interests of the population. The first consequence of the privatisation was

the loss of 2,000 jobs and a substantial cutting back in investment in modernisation and maintenance. Then, water prices were systematically driven upwards. According to the latest figures, the price of water has risen by 30.9 percent since 1999.

Two years ago, the *Tagesspiegel* newspaper wrote: “The consumer has to foot the bill: on average Berlin households must now pay an extra €500 for water and waste services annually—this is €200 more than the sum paid by citizens in Munich or Cologne.”

It is clear why the Berlin Senate is desperate to keep all contracts secret. In 1999, the private companies were contractually guaranteed an excessively high rate of profit for a period of no fewer than 28 years. Responsible for the signing of the contract, which was pushed through at high speed, was the former finance senator, Annette Fugmann Heesing (SPD).

Some time later, the constitutional court declared that the agreement to fix levels of profit over such a period of time was illegal. But RWE and Veolia had prepared themselves for such an eventuality with a special clause obliging the state of Berlin to guarantee the company’s profit levels in full even if the law for the partial privatisation law were to be completely or partly reversed.

There is another reason, however, why the Left Party in particular defends the secrecy of the contracts. The party currently complains that it has no option but to support “the undoubtedly bad contract from the years of the grand coalition in the city hall.” The argument is patently false because as a member of the current Senate, the party has reversed a number of other contracts without batting an eye—always with detrimental consequences for the population of the city.

In 2003, the Senate was confronted with the issue of whether it should contest the legal standing of the contracts struck with the private water companies or accept the contracts. It decided merely to rework the partial privatisation law in a manner that satisfied the constitutional court while guaranteeing the interests of the private investors as laid down in the contract of 1999.

In other words: The Left Party shares full responsibility and gave its approval and signature to the contracts of 2003 that enabled private companies to ruthlessly exploit the citizens of Berlin.

An examination of the company RWE makes clear why the struggle against privatisation and the policies of the Berlin Senate must be intensified.

RWE is the market leader in Germany for water management and supplies water to 11 percent of the

German population. Through its subsidiary Thames Water, the company is active in a total of 20 countries, supplying water to around 70 million persons in Egypt, Australia, Chile, Indonesia, Thailand and the US. RWE is currently preparing a launch on Wall Street based on its purchase of 36 percent of the shares of American Water.

Thames Water has become notorious for its violation of environmental norms: In London, a third of the drinking water is lost due to leaking pipes, and between 1999 and 2002, Thames Water was fined a total of £450,000 in connection with 20 cases of environmental pollution in England and Wales.

Another example of the international activities of the RWE subsidiary Thames Water is the water supply in Indonesia. In 1995, negotiations began between Thames Water, the French group Suez and the Indonesian dictator Suharto aimed at taking over the water supply of the country’s capital city, Jakarta. Indonesian law prohibited such participation by foreign enterprises in the water supply, so in July 1996, Suharto simply struck down the law.

The privatisation was then completed in 1997 on the basis of substantial participation in the new enterprise by Sigit Suharto—the son of the dictator. The apparent case of corruption still remains to be clarified. The appropriate contracts with Thames Water were annulled following the downfall of Suharto in 1998 but then renegotiated a short time later.

Today, Suez and Thames Water have a monopoly over the water services in Jakarta, and the consequences for the population are catastrophic. There have been a number of instances of severe pollution of the city’s water involving the presence of heavy metals and cleaning agents, but the interests of the company are protected by a contract that obliges the Indonesian state to repay all investments made plus all guaranteed future profits for the entire contract running time in the event of the original contract being annulled.



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