The Ionian Conference 2000: Facing the Challenges of the New Millennium

Insurance Regulation in Germany: Markets or Norms?

Paper presented to the Ionian Conference, 20 May to 22 May 2000, Corfu
Working Groups III: Governance and Citizenship in the European Union – The Influence of Culture

Henrike Müller
Sussex European Institute
University of Sussex
Falmer, Brighton BN1 9SH
UNITED KINGDOM
Tel: 0044 – 1273 – 67 8118
Fax: 0044 – 1273 – 67 8671
Email: H.Mueller@sussex.ac.uk

Henrike Müller

Insurance Regulation in Germany: Markets or Norms?

A Single Market?

It has often been argued that variations in market regulation in the member countries of the EU continue to be formidable obstacles to European financial market integration (Lamfalussy, 2000). The question has subsequently been raised whether differences in market regulation are being upheld in order to protect domestic companies from foreign competitors. This paper asks why national approaches to sectoral regulation differ in the first place. If one is to believe the economic literature on sectoral regulation, public intervention is only justified in cases of market failures (Kay and Vickers, 1990). So, why do we see different approaches to market regulation?

Insurance here is seen as an interesting area of investigation as it is itself about regulating risk. "[A] few years ago in Russia, it wasn't possible to insurance your baggage on a train, although you can now. Why couldn't you insure it? Well because if you lose your luggage, so what? These things happen, it's an act of God. That's how the world used to be. The idea that you can cover every risk is an extraordinarily odd idea but an intriguing one once you start to think about it. The idea of covering risk and the notion of liability is bound up, and all these things are in some way central to the attempt of western society to control the world" (Giddens, 1999).

Insurance is a device to cope with risk and uncertainty. In return for the payment of a fee by the insuree, the insurer promises to pay a certain sum of money in the case that the specified event occurs.

The concept of insurance (public as well as private) is fundamental to modern welfare systems. In order to minimise risk (old age, sickness, death, accidents, temporary incapacity, financial loss etc.) people enter into insurance scheme. Insurance works on the principle of the law of large numbers: by sharing risks enough funds are being pooled to provide financial coverage in case of loss. Insurance arrangements work on two level: it provides cover in case of individual misfortune as well as enhancing the social stability of society at large.

The socially important role of insurance was echoed in a judgement by the European Court of Judgement in 1986: “the insurance sector is a particularly sensitive area from the point of view of the protection of the consumer both as a policy-holder and as an insured person. This is particular because of the *specific nature of the service* provided by the insurer, which is linked to future events, the occurrence of which, or at least the timing of which, is uncertain at the time when the contract is concluded. An insured person who does not obtain payment under a policy following an event giving rise to a claim may find himself in a very precarious position” (Commission vs. Germany, case 205/84, paragraph 30, emphasis added).

Safe and stable insurance markets for the benefit and protection of policyholders are the ultimate rationale of insurance supervision. However, there does not exist a standard type regulatory approach to insurance in industrialised countries. Regulatory practices differ from country to country, and so do the principles and rules that under pin them.

This paper examines how insurance regulation in post-war Western Germany was embedded in a larger framework of principles and ideals that governed economic transactions. The argument focuses on how we can conceptualise the relationship between belief systems and economic-regulatory practices.

Methodological Framework

The paper asks: why do regulatory agencies act the way they do? What informs their behaviour? What is the relationship between the goals of regulation and their practice.

The paper draws on the work of March and Olsen (1989, 1998) for its methodological framework. In the first place it employs an institutional outlook: “political institutions define the framework within which politics takes place” (March and Olsen, 1989, p.18). Before we can ask how these institutions function, we need to determine the exact meaning of the term ‘institution’.

“[A]n ‘institution’ can be viewed as a relatively stable collection of practices and rules defining appropriate behaviour for specific groups of actors in specific situations. Such rules and practices are embedded in structures of meaning and schemes of

interpretation, which explain and legitimize particular identities and the practices and rules associated with them. Practices and rules are also embedded in resources and principles of their allocation which makes it possible for individuals to enact roles in an appropriate way and for a collectivity to socialize individuals and sanction those who wander from proper behaviour" (March and Olsen, 1998, p.7).

The object of our inquiry is the practice and norms of insurance regulation in Germany. Assessing this area, the paper employs a comprehensive approach. Sectoral regulation, it is argued, needs to be examined against the background of the domestic economic 'constitution'. The characteristics of the domestic economic system - its key operating structures, its principles and practices, and its institutionalised arrangements – are interpreted to constitute an 'institution' in the March and Olsen meaning of the word. The practice of insurance regulation is subsequently configured within this overarching framework of principles and ideals.

Moving from the macro- to the micro-level: what shapes behaviour? March and Olsen argue that political action follows a 'logic of appropriateness'. "Linking action to a logic of consequences seems to ignore the substantial role of identities, rules, and institutions in shaping human behaviour. Within the tradition of a logic of appropriateness, actions are seen as rule-based. Human actors are imagined to follow rules that associate particular identities to particular situations, approaching individual opportunities for action by assessing similarities between current identities and choice dilemmas and more general concepts of self and situations. Action involves evoking an identity or role and matching the obligations of that identity or role to a specific situation. The pursuit of purpose is associated with identities more than with interests; and with the selection of rules more than with individual rational expectations" (March and Olsen, 1998, p.11).

The link between the macro- and the micro-level of politics is therefore crucial to an understanding of the 'logic of appropriateness'. Political action is based on identity and what is regarded as 'right' or 'wrong' in a specific situation. Activities are mediated though institutions and the rules and routines that define the institution. "The individual personality and will of political actors is less important; historical traditions as they are recorded and interpreted within a complex of rules are more important. A calculus of political costs and benefits is less important; a calculus of identity and appropriateness is more important. Learning as recorded in history-

dependent routines and norms is more important; expectations of the future is less important" (March and Olsen, 1989, p.38).

The Practice of Insurance Regulation

The 1950s in Germany saw the development of what has been described as the *Kölner Soziale Marktwirtschaft'* (see in particular the writings of Müller-Armack, 1956); a theory of market order that stipulated that organised groups in society – churches, trade unions, sectoral associations etc. – are an integral part of national economic activity, helping to create conditions of consensus that would deliver such social goods as stability, redistribution, an equitable income policy etc. (Hank, 1999). The idea of social partnership in the governance of the economy found its way into regulatory politics. In post-war Germany, the insurance industry developed a strong organisational structure, according to the type[1] of insurance business.

In a market order that was based on social consensus, the insurance industry's peak associations (*Verbände*) soon engaged in a systematic consultation with the national regulatory authority: the *Bundesaufsichtsamt für das Versicherungswesen* (BAV). A system of consultation and co-ordination between the industry associations and the BAV developed and consolidated over the years, leading to a situation where prices, contract conditions and entry into the market became a matter of joint decision-making (Moran, 1992).

Although formally under the supervision of the Ministry of Economics, the national regulatory authority enjoyed far-reaching independence. With the passing of the supervisory law in 1957, based on a law that goes back to the beginning of the century, the agency was given considerable legal autonomy and a substantial degree of operational independence from the interference of the federal government. The degree of market control was legitimised by reference to the special needs of the private insurees: the public authority was entrusted with the responsibility to protect the interests of the insured as well as to safeguard the financial stability of the economy at large. It was argued that market transparency for mass policyholders necessitated

[1] Following the principle of *Spartentrennung* insurance companies were required to form legally separate businesses according to the type of insurance services they were offering: life, health, legal-aid, motor liability, industrial insurance etc.

largely standardised products and regulated prices. As the president of the BAV, Angerer argued: "The reasons that led to the establishment of the national regulatory agency in 1901 have not lost their validity; changing societal conditions have not made them redundant. The activist and well-informed citizen that is the ideal of all our policies is not as knowledgeable as we would wish. As regards the insurance business, he would be forlorn without the help of the state"[2] (Angerer, 1985). Regulating insurance was a way of maintaining macroeconomic stability. It was feared that insurance bankruptcies could destabilise the entire macroeconomic and financial system. Competition, so official reasoning went, was not in the interest of the insured as it would introduce an element of instability in the system. Sectoral collaboration, therefore, was benefiting the consumer by securing longer term stability while high premiums guaranteed that insurance companies would meet their liabilities over the long-term (Rees and Kessner, 1999).

Insurance Regulation and the 'Economic Constitution' of Ordo-liberalism

The objective of insurance regulation was to ensure that the benefits of a stable market were equitably distributed throughout society, minimising market failures in the form of insurance insolvencies or consumer discrimination. This approach to market regulation was premised on the well-develop programme of *Ordnungspolitik* (often translated as 'ordo-liberalism' to described its foundations in liberal thought) that shaped the post-war economy in both its substantive and procedural aspects. Ordo-liberal thought focused on the importance of an orderly framework of rules for the economy and of institutional arrangements that would ensure an efficient functioning of markets.

Ordoliberalism had developed in response to the failures of the Weimar authorities to control the powerful industrial cartels and monopolies. What makes the theory of Ordoliberalism stand out, is its attempt to theorise the link between the

[2] 'Die Gründe, die bei der Errichtung der Versicherungsaufsichtsbehörde ins Felde geführt wurde, haben auch heute noch Gültigkeit. Sie sind duch die veränderten Verhältnisse keineswegs überholt. Der mündige Bürger, der uns als Ideal vorschwebt, ist nicht auf allen Gebieten versiert. Im Versicherungswesen wäre er ohne staatliche Hilfe hoffnungslos überfordert'.

economic order and individual liberty[3]. Individual political freedom was to be safeguarded by ensuring a liberal market order. A precondition to a functioning market order was the protection of key individual rights: rights to property, right to trade, liberty of contract, rules governing liability etc.

According to one of the principal proponents of ordo-liberal thought – Walter Eucken – the state had an important role to play in creating the conditions for a competitive market order. While ordo-liberalism's main concern was with state powers and their potential for harm to individual liberties, a weak state - as Weimar had shown – was equally menacing. The answer to problem was a new type of 'constitutionalised' economic order that would govern state-economy and state-society relations. Regulative principles were established from which the practice of regulation was to be deducted. Based on this approach to market organisation, issues were not contextualised, but were approached from an abstract point of view, to see where they touched matters of principle. "The precondition of any integration is prior agreement on the principles, systems and goals of action and behaviour" (Ludwig Erhard quoted in Dyson and Featherstone, 1999, p.275). Economic system, in other words, did not just 'happen', but they were 'formed' (Gerber, 1994a, p.44).

Exempting Insurance, Reinforcing Stability?

Despite the enormous influence of ordo-liberal thought on the structuring of the economy, certain sectors soon became exempted from the principle of competition. Insurance was one of them.

Ordnungspolitik as such does not prescribe techniques but provides only general principles. In post-war West Germany, a strong anti-trust law was the backbone of *Ordnungspolitik*. The German Cartel Law has often been described as the cornerstone of ordo-liberal politics: "the constitution of the German market order or the crown of a free market[4]" (Fehl and Schreiter, 1997, p.221). The central clause banning cartels (*Kartellverbot*) however – the centrepiece of the government's commitment to a liberal market order – found little acceptance amongst industrialists and politicians in the

[3] see Hayek, 1973

[4] "Das Grundgesetz der Marktwirtschaft oder die Krone der marktwirtschaftlichen Ordnung".

1950s. During the drafting stage of the bill the outright ban of cartels became the object of strong lobbying efforts. The then Minister of Economics, Ludwig Erhard, had worked to have insurance included in the competition bill, but the Ministry of Economics did not prove strong enough to overcome the resistance of the industry (Everson, 1996). The final version of the law against restrictions on competition was passed in 1957. It contained a clause that provided for the (partial) exemption of insurance from the *Kartellverbot.* The nature of insurance, it was argued, required controlled competitive conditions (*Besonderheitenargument*) and a special regulatory approach to guarantee the social goods that stemmed from stable insurance markets. The academic justifications were as follows:

1. Competition was to be curbed as bankruptcies of insurance companies would undermine the trust in the system as well as harming individual policy-holders. Access and in particular exit from the market had to be extensively controlled (Zohlnhöfer and Eggerstedt, 1989)
2. Prevailing economic theory argued that the danger of ruinous competition was particularly acute in the insurance market. The so-called 'capacity argument' (*Kapazitätenargument*) stipulated that given the low costs of increasing the supply of insurance services, companies would enter into fierce competition thereby undermining their long-term financial solvability. This argument proved very influential in securing an exemption from the cartel law in the 1950s (Finsinger, 1989).
3. Furthermore it was argued that given the complexity of the insurance contract, individual policyholders in the mass insurance markets were not in a position to adequately assess the price-value relationship of the insurance product they are purchasing. There was, therefore, a need to provide mechanisms that would make the market transparent even to uniformed consumers.

Derogations from the general prohibition of cartels became an integral part of German competition policy as other key sectors like banking, rail transport, agriculture etc. were exempted from the prohibition of cartel arrangements. From its beginnings there existed an inherent paradox in the German regulatory order: a system based on liberal market order with strong institutions and principles to 'police' and safeguard competition, while allowing the exemption from anti-trust control of vital industries. Some observers argued that between 40 to 50% of all economic activity were exempted from competition control (Fehl and Schreiter, 1997).

Hardach argues that Germany's tradition of supporting business concentration in order to further the state's hegemonic interests found its way into the post-war system. "Quite in contrast to the Anglo-American view, which connected competitive markets with equilibrium and monopolistic situations with indeterminacy and disorder, it was held that unrestricted competition was 'destructive' and that cartels were an 'element of order'" (Hardach, 1980, p.148').

Who were the Actors?

Who implemented the constitutional design? Who applied and enforced the aspects of the ordo-liberal thought that related to insurance?

In an excellent article on German competition policy, Gerber (1994b) traces the relationship between the expert community, authority and regulatory practice. He identifies three structural aspects:

a) membership in an established 'leadership community' is crucial to authoritative judgement and defines 'voice' in regulatory politics;
b) the internal hierarchy of the leadership community matters in terms of how 'voice' is weighted; ranking is defined by professional status and reputation;
c) the regulatory community is closely-knit and consists exclusively of academics, judges and practitioners. "The contours of this community are relatively distinct. It includes the leading officials of the Federal Competition Office, the judges in the chambers of the courts responsible for reviewing competition law decisions, professors (primarily law professors, but also some economists) who are active in competition law matter, and many practitioners who write in the area. Virtually all decisions of importance in German competition law are made, or heavily influenced, by the hundred or so members of this group" (Gerber, 1994b, p.538).

These findings can be applied to insurance regulation. Here, however, the links with federal ministries were stronger and representatives from industry enjoyed membership in the expert community (Everson, 1996). Like the president of the Federal Cartel Office, the president of the BAV was a very influential public figure - speaking on behalf of the mass consumers. He was also a central authority within the community of insurance experts, setting the agenda and influencing the direction of policies. It was his endorsement of the key European insurance directives that helped the European

Commission secure much needed support for deregulation within the insurance community in Germany in the late 1980s.

Like in competition policy, one also finds close links between academic scholars and judicial and administrative practitioners in insurance regulation. Special status was granted to academics. “In a community that is based on scholarship, professors are likely to have power, because scholarship is a principal part of what they are paid for” (Gerber, 1994, p.539).

Until the early 1990s, representatives of mass policy-holders were not part of the system of regulation. Direct participation of consumers of insurance services was limited to industrial customers. This is changing now as a result of deregulation and market opening. It does, however, mirror the paternalistic nature of much regulation in post-war Germany. The BAV had a self-image as a consumer protection institution while denying consumer organisations a voice in the regulatory process. “In this respect *Ordoliberalism* was grounded in German traditions: respect for the expert and for the role of subjectivity (*Sachlichkeit*) in public affairs; of belief in a strong state standing above the economic struggle; and of valuing the clarity and predictability that come from observance of rules in economic policy” (Dyson and Featherstone, 1999, p.277).

Due to the close relations between decision-makers and practitioners, the regulatory system was highly autonomous and achieved remarkable internal consensus about the rules of ‘appropriateness’. By the same token it achieved a high degree of stability. Norms and discourses operated self-referentially; actors were imbued with a sense of “ethical purpose” (Dyson and Featherstone, 1999, p.277).

Assessing Regulatory Practice and its Changing Nature

Reflecting the experience of social and economic upheaval of the Weimar Republic, the economic constitution that emerged in post-war western Germany valued social stability and continuity. “Social security (*Sicherheit*) and social justice are the greatest concerns of our time” (Eucken, quoted in Gerber, 1994a, p.37). A canon of normatively justified beliefs emerged that framed regulatory policies. In terms of the normative order, social security was ranked highest. The practice of regulation was impregnated with a belief in the beneficial nature of public agency. Regulatory activity itself was based on identifying the appropriate behaviour within the terminology of rules and

duties to the 'citizen consumer'. Belief systems were internalised through socialisation into the routines of the practitioner community. Norms, however, were slow to change. As late as 1985 a leading figure in the insurance expert community still argued that "competition and insurance are two opposing principles" (Ritter, 1985).

At this point it might be asked whether European efforts to deregulate the sector represented a breaking point in the practice of insurance regulation or was the process of change incremental? As a result of European market opening, have the values that frame regulatory behaviour changed?

European efforts to deregulate financial markets towards the end of the 1980s, buttressed the voices of the domestic pro-competition forces in Germany. Liberal academics in the tradition of *Ordnungspolitik* had for long argued that the exemption of the insurance sector from the cartel law was an anomaly of the economic order of post-war Germany (Schmidt, 1980, Finsinger, 1986, Eickhof, 1993).

These 'voices' became increasingly vocal in the early to mid-1980s as scholarly debated shifted to a renewed interest in the benefits of competition. Publications by independent commissions (*Sachverständigenrat* und *Monopolkommission*)[5], active outside the insurance community, drew attention to the degree of public intervention in the insurance sector. What was later described as a 'politicisation of regulation' (Dyson, 1992) was in the first instance a changing debate in academic circles. The Ministry of Economics as well as the Federal Cartel Office, however, were quick to mobilize resource to steer the debate further into the direction of less regulation (Schlecht, 1997).

The new ideas were absorbed and discussed by the 'leadership community' with strategic input from the Federal Ministries and the Federal Cartel Office (Wolters, 1995). As a result, the goals and instruments of regulation were re-assessed and alternatives were considered. The debate began to slowly embrace a conception of competition as beneficial to the economy, changing the rules according to which regulatory practices were operated.

As regards change, March and Olsen argue: "The transformation of institutions is neither dictated completely by exogenous conditions nor controllable precisely by intentional actions. For the most part, institutions evolve through a relatively mundane

[5] Monopolkommission (1988) Die Wettbewerbsordnung erweitern: Hauptgutachten Monopolkommission 1986/1987; see also: Soltwedel, Rüdiger (1987) Zur staatlichen Marktregulierung in der BRD

set of procedures sensitive to relatively diffuse mechanisms of control. Ideas about appropriate behaviour ordinarily change gradually through the development of experience and the elaboration of worldviews" (March and Olsen, 1989, p.171).

Changes in the external environment contributed to a review of 'worldviews' within the regulatory community: the European Commission's single market programme challenged the practice of insurance regulation in Germany, arguing that it functioned as a barrier to market integration. The argument however was met with strong opposition inside the German insurance expert community. What was contested was the process by which regulatory authority was allocated to the European level, removing a substantial degree of autonomy and policy responsibility from the domestic domain. More specifically, the struggle was over the legitimate jurisdiction of regulation – European or national.

However, as March and Olsen point out, "institutions are not simple reflections of current exogenous forces or micro-behaviour and motives" (p.167). Absorbing the external challenges, institutions simultaneously define the environment within which the conflicts are resolved. As a resource, institutions draw on their own institutional knowledge, experience and routines. Change is about revising embedded rules, as mediated by the institutional framework. "Unless we assume that a political environment is stable, it is likely that the rate of change in the environment will exceed the rate of adjustment to it" (March and Olsen, 1989, p.168).

The authors stress that change is essentially a process of institutional adaptation and reaction and that there are strong interconnections between the institution that is made subject to reform and the larger exogenous environment. Institutions, in other words, evolve and it often takes some time before the consequences of reform become apparent.

Sometimes, however, the speed of adjustment is a matter of concern – not just for regulators, but for the success of a policy. "The result could in fact be seen as a victory for the minimalist position. However, the game is not yet over. If, on the one hand few benefits in terms of market unification materialize, and there are cogent arguments for this possible outcome, while, on the other hand, the predictions of the dire consequences of deregulation and competition made by the maximalist school are at least in part confirmed, then there may well be a Europe-wide tightening of insurance market

regulation" (Rees and Kessner, 1999, p.366). The battle over the appropriate degree of insurance regulation, it seems, is not yet over. And there is still a lot of institutional adjustment and learning to be achieved – amongst all parties.

Bibliography:

Angerer, August (1985) Wettbewerb auf den Versicherungsmärkten aus der Sicht der Versicherungsaufsichtsbehörde in: ZVersWiss Band 74, 1985

Commission vs. Germany, Case 205/84 in: Common Market Law Report, 69, 1987

Dyson, Kenneth and Featherstone, Kevin (1999) The Road to Maastricht – Negotiating Economic and Monetary Union, Oxford University Press

Eickhof, Norbert (1993) Zur Legitimation ordnungspolitischer Ausnahmeregelungen in: ORDO, Band 44

Everson, Michelle (1996) The German Federal Supervisory Authority for Insurance in: Majone, Giandomenico Regulating Europe, Routledge, London

Finsinger, Jörg (1985) Wettbewerb oder staatliche Lenkung in: Hamburger Jahrbuch für Wirtschafts- und Sozialpolitik, Volume 30 (1), pp.129-140

Finsinger, Jörg (1989) Zur Liberalisierung des Preiswettbewerbes in der Versicherungswirtschaft in: Aschinger, Gerhard et al Deregulierung – Eine Herausforderung an die Wirtschafts- und Sozialpolitik in der Marktwirtschaft, Duncker & Humblot, Berlin

Gerber, David (1994a) Constitutionalising the Economy: German Neo-liberalism, 1994 in: American Journal of Comparative Law Volume 42, Number 1, Winter 1994

Gerber, David (1994b) Authority, Community and the Civil Law Commentary: An Example From German Competition Law in: American Journal of Comparative law, Volume 42, Number 3, Summer 1994

Giddens, Anthony (1999) The Director's Lecture: Runaway World: The Reith Lectures Revisited, delivered on 17 November 1999

Hancher, Leigh and Moran, Michael (1989) Organizing Regulatory Space – Introduction in: Hancher and Moran (eds.) Capitalism, Culture and Economic Regulation, Oxford, Clarendon Press

Hank, Rainer (1999) Marktfreiheit und soziale Steuerung, book review of Alfred Müller-Armack. Wirtschaftslenkung und Martwirtschaft in: *Frankfurter Allgemeine Zeitung* 22.3.1999

Hardach, Karl (1980) The Political Economy of Germany in the Twentieth Century, University of California Press, Berkeley

Kay, John and Vickers, John (1990) Regulatory Reform: An Appraisal in: Majone, Giandomenico Deregulation or Re-regulation? Regulatory Reform in Europe and the United States, Pinters Publishers, London

Lamfalussy, Alexandre (2000) Regulation under Strain in: Financial Times, 8.2.2000

March, James G. and Olsen, Johan P. (1989) Rediscovering Institutions – The Organizational Basis of Politics The Free Press, New York and London

March, James G. and Olsen, Johan P. (1998) The Institutional Dynamics of International Political Orders, ARENA Working Papers

Moran, Michael (1992) Regulatory Change in German Financial Markets in: Dyson, Kenneth (ed.) The Politics of German Regulation, Dartmouth Publishing Company, Aldershot

Rees, Ray and Kessner, Ekkehard (1999) Regulation and Efficiency in European Insurance Markets in: Economic Policy, No. 29, October 1999 pp.365-397

Schlecht, Otto (1997) Das Bundesministerium für Wirtschaft und die deutsche Ordnungspolitik der Nachkriegszeit in: *ORDO* Bd.48 Lucius & Lucius, Stuttgart

Schmidt, Reimer (1980) Versicherungsaufsicht und Versicherungswettbewerb – einige Anmerkungen in: Schmidt, Reimer; Hamm, Walter (eds.) Wettbewerb und Fortschritt, Nomos, Baden-Baden

von Hayek, F.A. (1993) Law, Legislation and Liberty, Routledge, London

Wolters, Georg (1995) Wettbewerb auf dem Versicherungsmarkt? in: *ORDO* Jarhbuch f. d. Ordnung v. Wirtschaft u. Gesellschaft, Fischer Verlag, Stuttgart Bd 46 pp.345-359

Zohlnhöfer, Werner and Eggerstedt, Harald (1989) Deregulierung in der deutschen Versicherungswirtschaft: Die Liberalisierung des Bedingungswettbewerbes in: Aschinger, Gerhard et al *Deregulierung – Eine Herausforderung an die Wirtschafts- und Sozialpolitik in der Marktwirtschaft*, Duncker & Humblot, Berlin