

**International Summer School on
REGULATION OF LOCAL PUBLIC SERVICES**

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**Implementing Infrastructure Regulatory Reforms
in Multi-level Governance Systems**

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0. Overview

Aims of this lecture:

- 1) To present and discuss issues related to regulatory reform of infrastructure in multi-level governance systems;
- 2) To present and discuss some instances of regulation in multi-level governance systems:
 - 2.1) water sector reform in Italy in the 1990's-2000's
 - 2.2) urban waste sector in Portugal since 1990's

1. Regulatory reform in multi-level governance systems

Regulatory reforms typically aim to radically reconfigure the way public services are provided.

Regulatory reforms often include measures such as:

- Privatisation
- Liberalisation
 - Opening up access to networks and essential facilities
 - Unbundling segments of the infrastructure industry
 - Giving up tariff setting by public authorities
- Re-regulation
 - A change of regulation
 - Often with new regulatory institutions and actors
 - Sometimes confused with de-regulation

1. Regulatory reform in multi-level governance systems

Often regulatory reforms consist of “transformative shifts” from one of these **regimes** to another (Gómez Ibáñez, 2003):

- Public ownership and provision of public services;
- Allocation of franchises for delivering public services;
- Discretionary powers granted to regulatory authorities;
- Liberalization, provided some regulation of access, price, and quality.

1. Regulatory reform in multi-level governance systems

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(from the most pervasive presence of public authorities..)

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(...to the minimal interference of public authorities in markets)

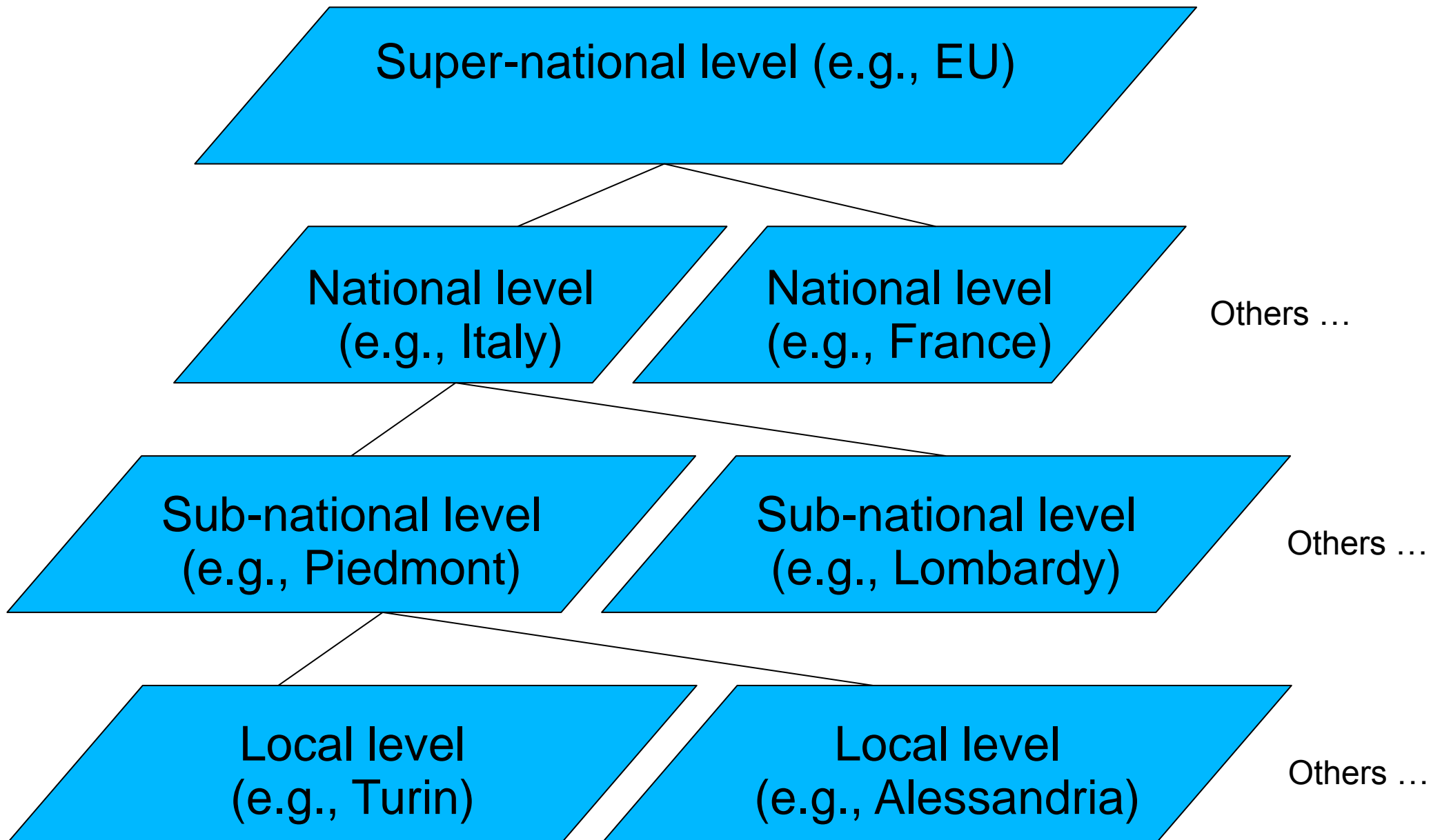
1. Regulatory reform in multi-level governance systems

Regulatory reforms typically entail a considerable amount of **political confrontation** in both the making and the implementation “stages” of regulatory reform policy cycles.

Here, we are especially focused on the implementation “stage”, where apparently “technical” and “administrative” activities really consist of the “continuation of politics by other means” (Wildavsky and Majone, 1979).

The **multi-level governance context** provides a special source of continuous political confrontation – one that calls for mutual adjustment (Lindblom, 1959) between public authorities situated at different tiers of the governmental systems.

1. Regulatory reform in multi-level governance systems



1. Regulatory reform in multi-level governance systems

What kind of issues and opportunities arise from making and implementing regulatory reforms in multi-level governance systems?

1. Regulatory reform in multi-level governance systems

One relevant issue is the one of whether the reforms are “politically sustainable” (Patashnik 2003, 2008) in the post-enactment (implementation) stage.

A reform is sustainable if the reform produces:

- a) **shift of institutional configurations** that “disable” policy-makers from taking new actions contrary to the reform “spirit” and objectives;
- b) **policy feedback effects** that affect identities, political resources, and strategic behaviour of relevant actors.

1. Regulatory reform in multi-level governance systems

One relevant opportunity is the one of contrasting and comparing the performance of infrastructure or utility service suppliers across jurisdictions within the same overarching regulatory framework.

Systematic comparison results in:

a) Benchmarking performance through Key Performance Indicators (KPIs), possibly made public and open to scrutiny (“name and shame” policy);

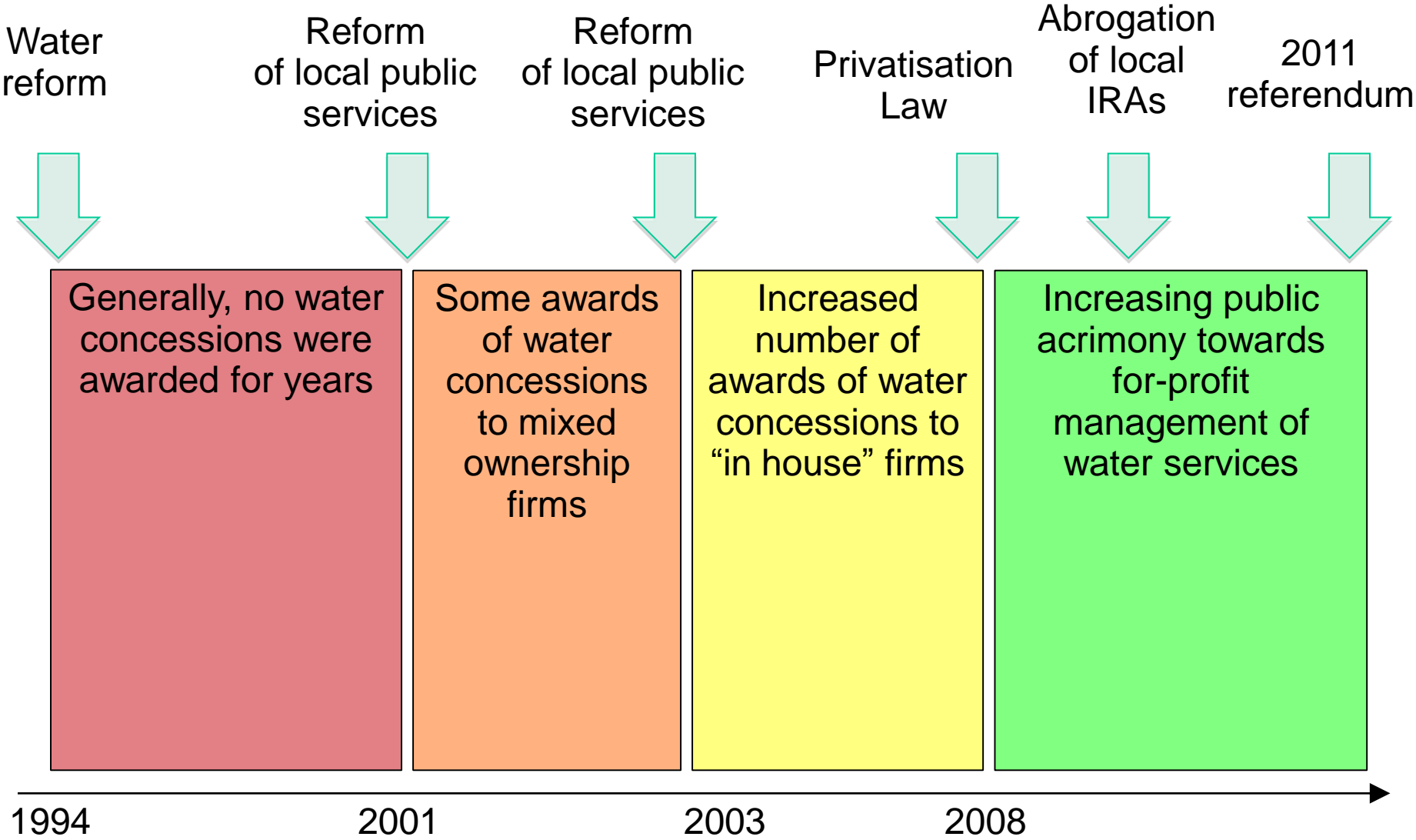
b) Yardstick competition, where explicit performance indicators are related to incentive schemes (i.e., rewards for good performers, possibly penalties for poor performers)

2. Regulatory reform of the water sector in Italy

- Dissatisfying water service performance and inadequate financial capacity in early 1990's
- Regulatory reform (1994) that provided a two-tier regulatory system, franchise concessions, and price-cap tariff regulation
- Troubled implementation process (about 15 year long)
- 2011 referendum against water privatisation

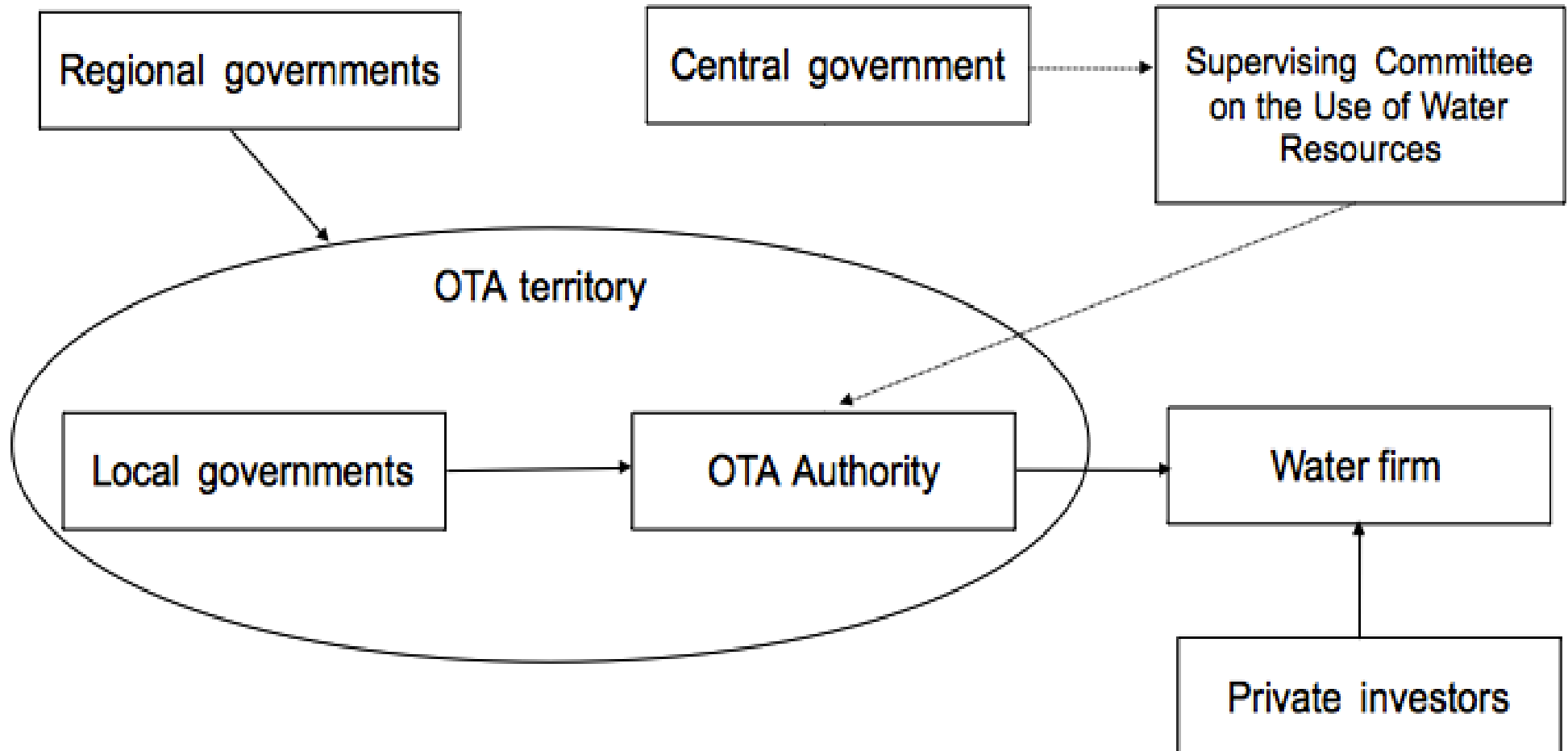


2. Regulatory reform of the water sector in Italy



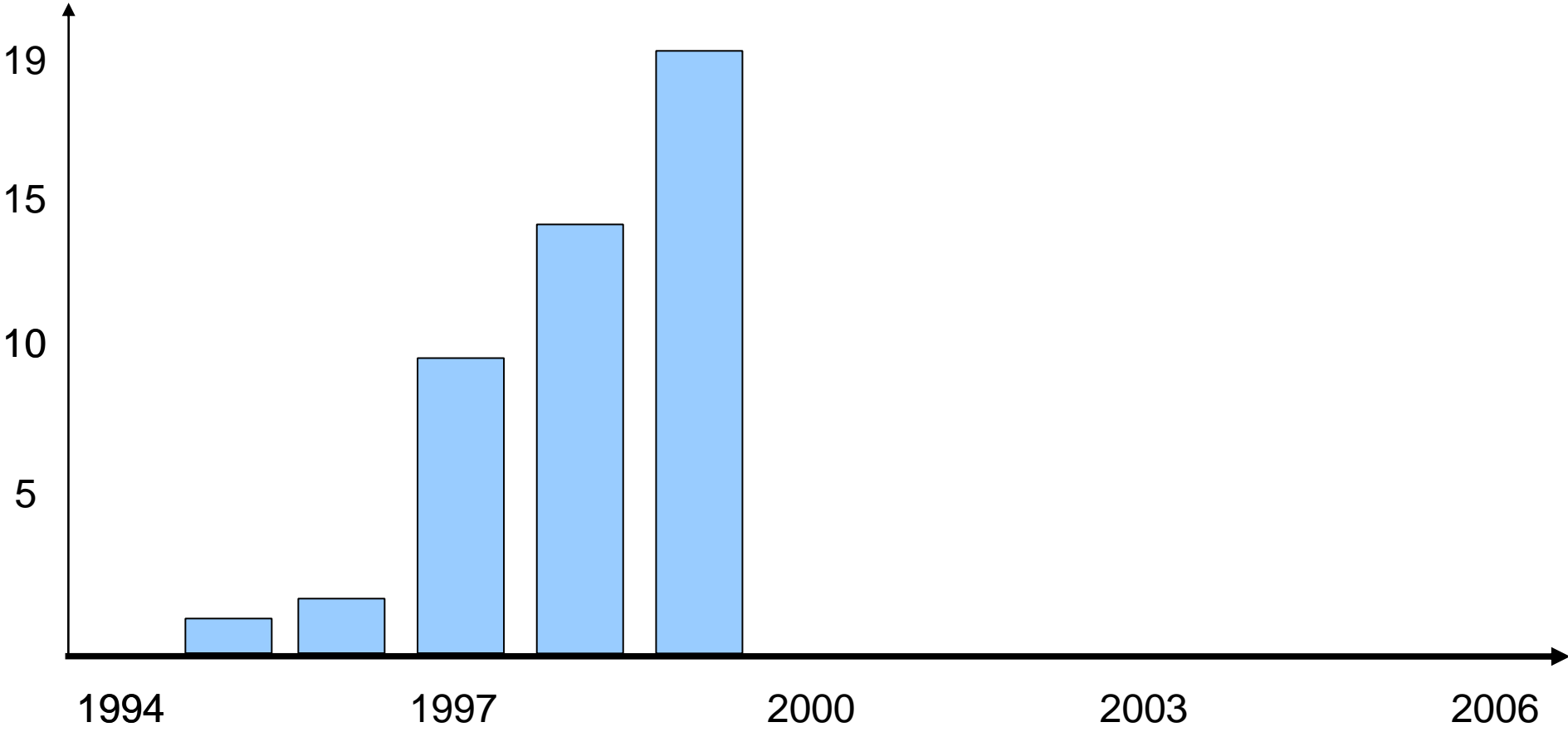
2. Regulatory reform of the water sector in Italy

The **institutional design** of the 1994 water reform.



2. Regulatory reform of the water sector in Italy

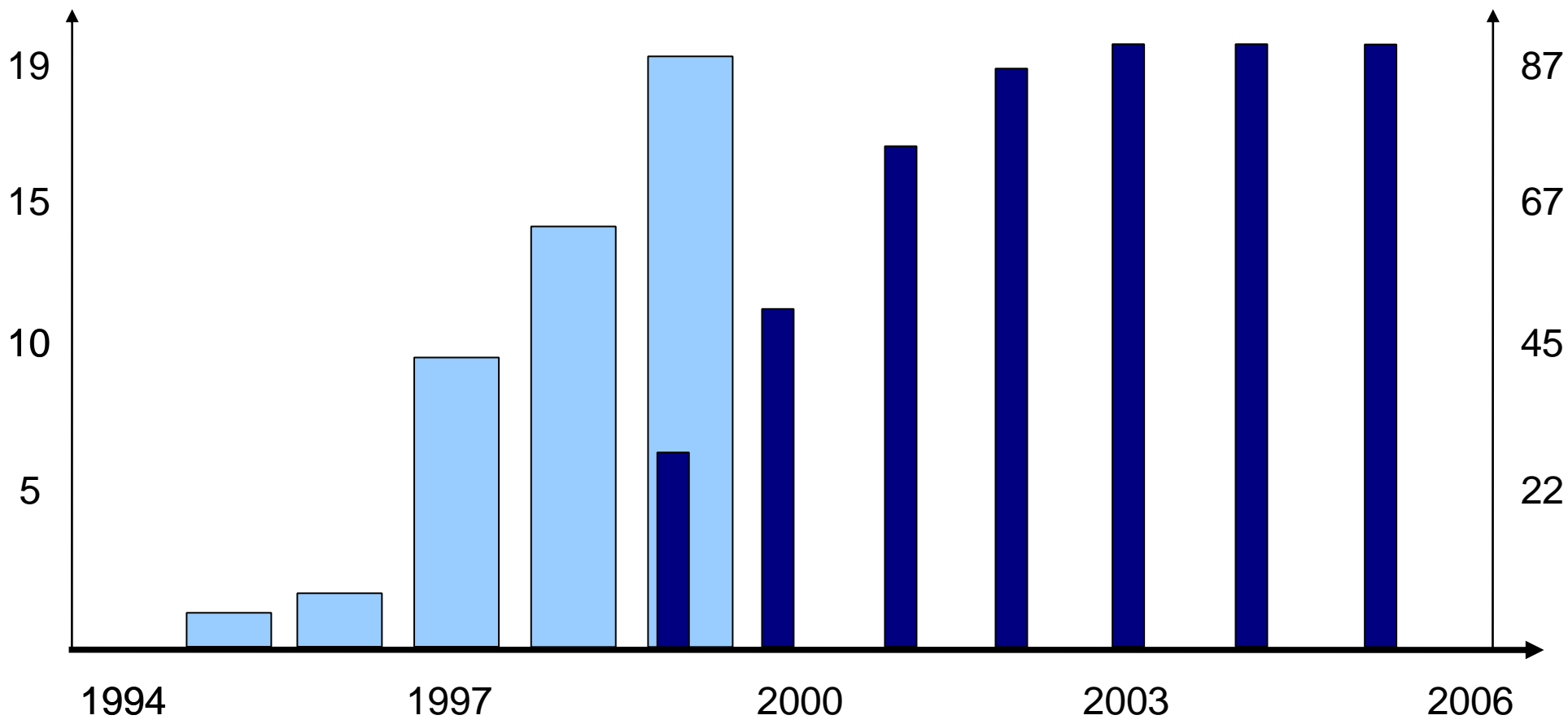
Number of regions that transposed the 1994 water reform



2. Regulatory reform of the water sector in Italy

■ Number of regions that transposed the 1994 water reform

■ Number of OTA authorities established

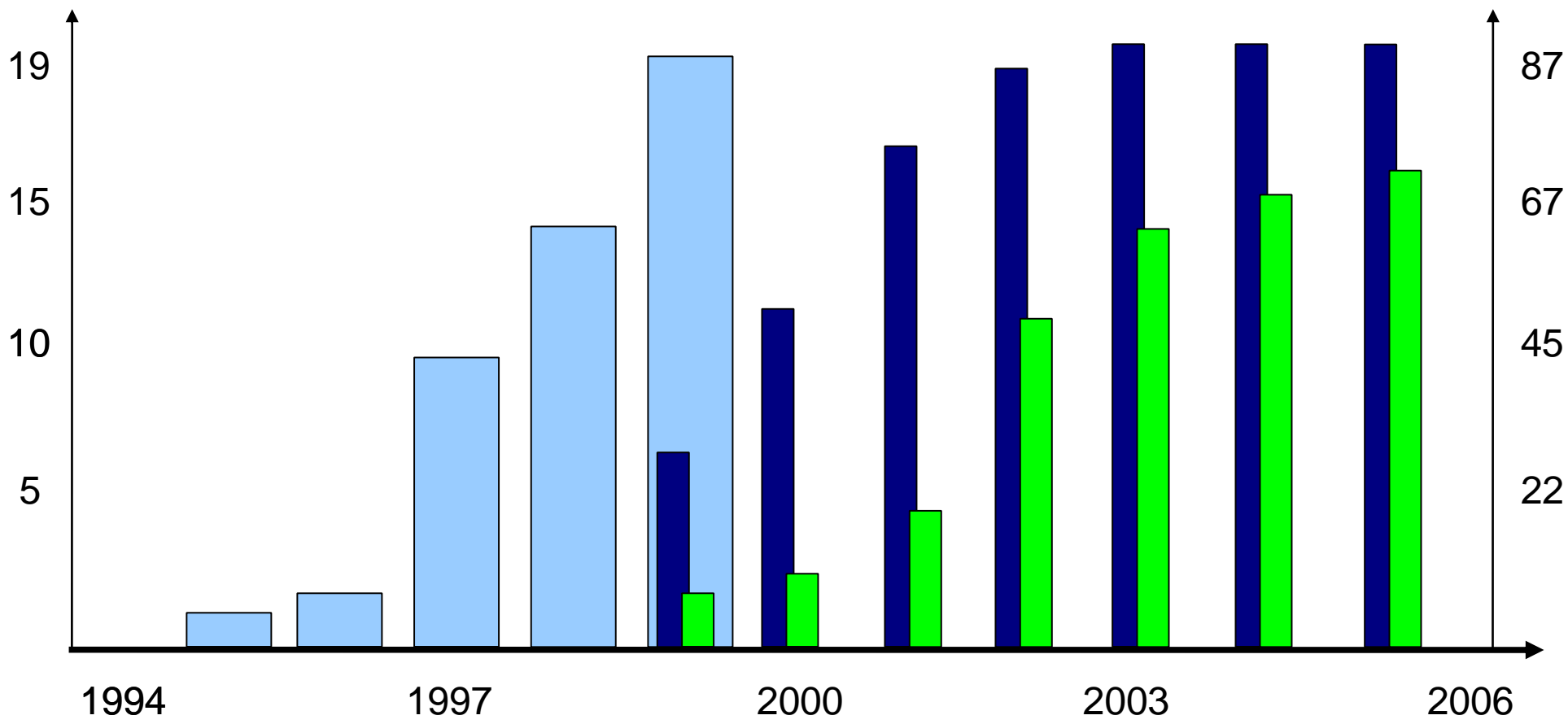


2. Regulatory reform of the water sector in Italy

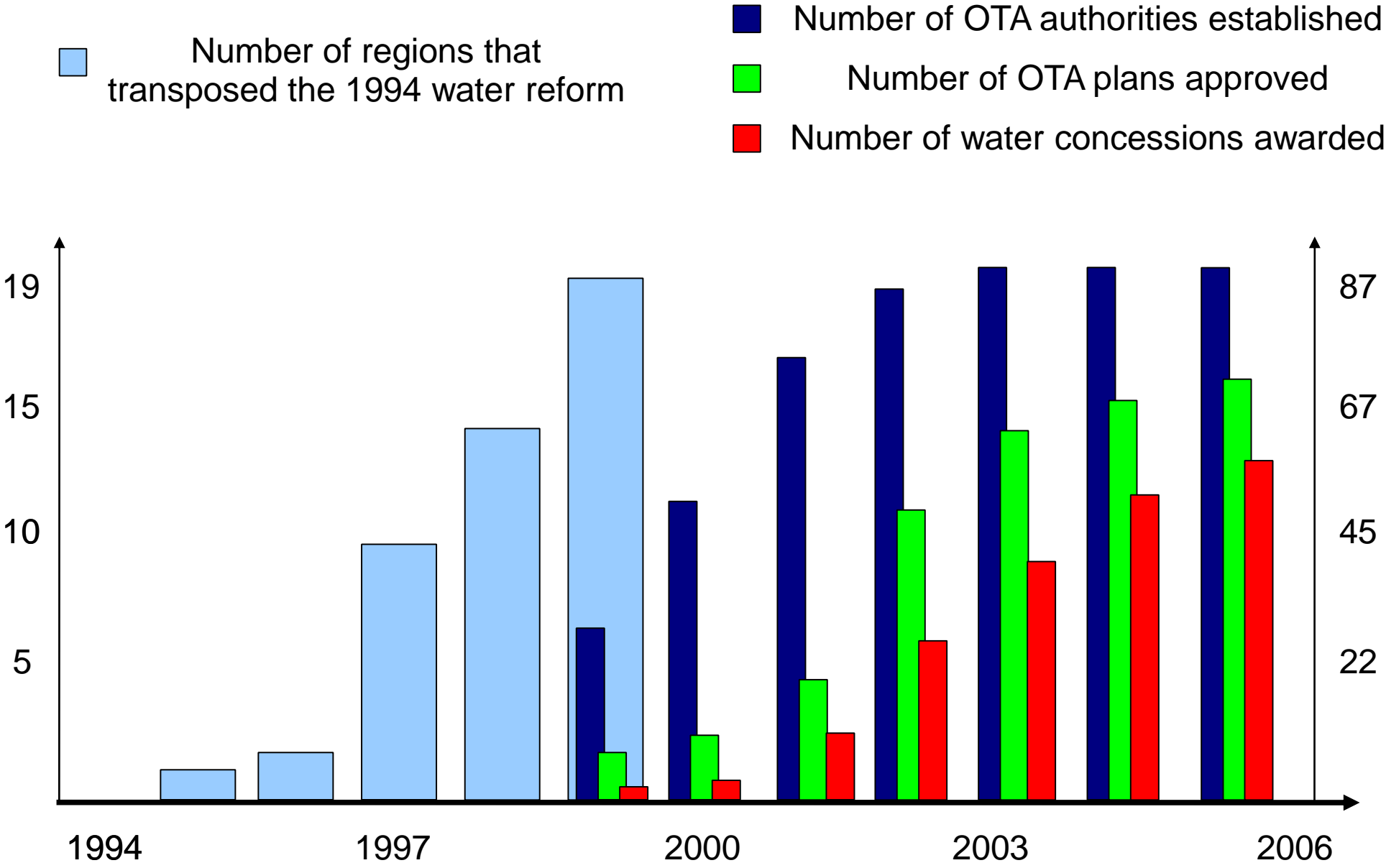
Number of regions that transposed the 1994 water reform

Number of OTA authorities established

Number of OTA plans approved

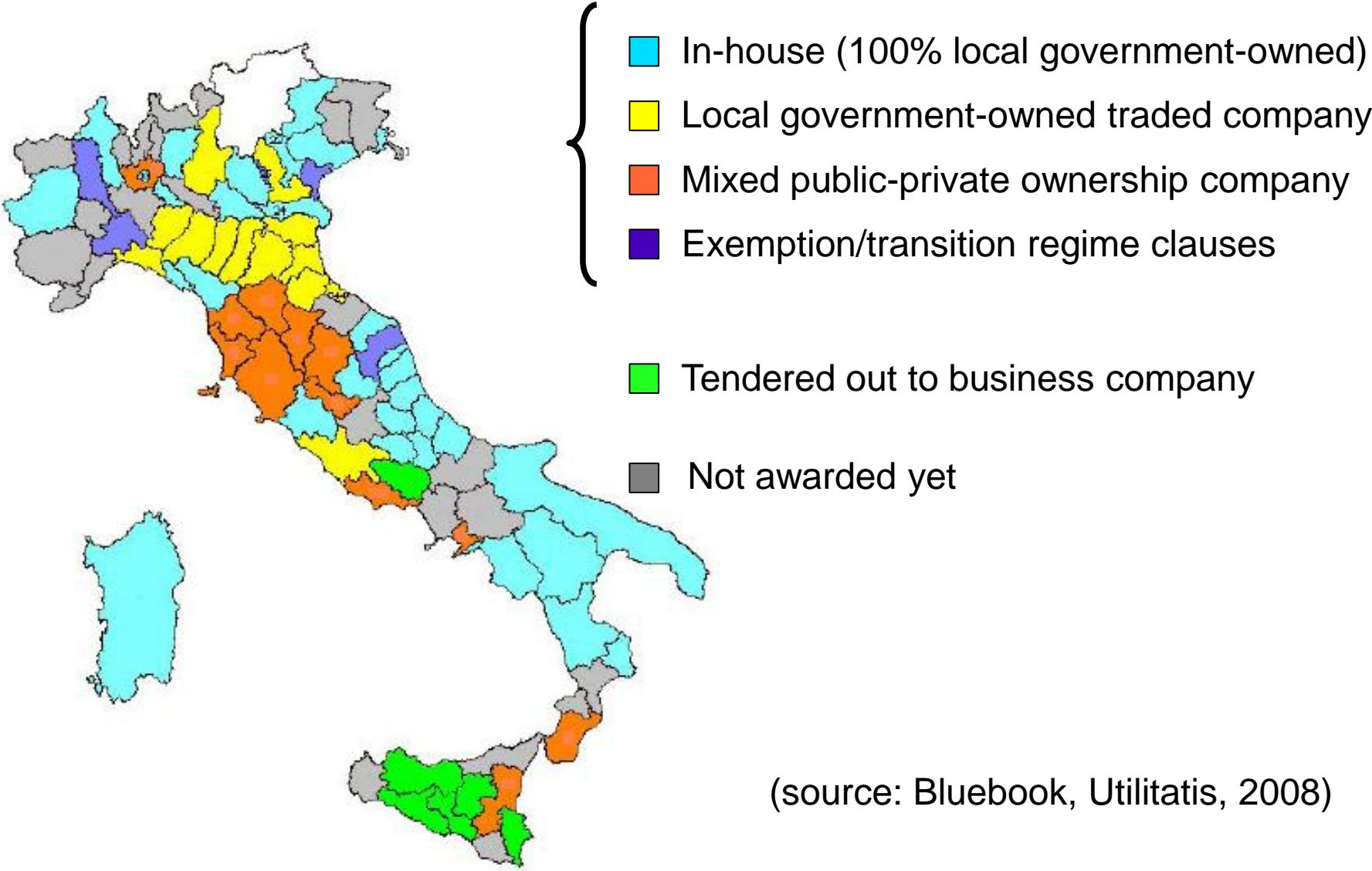


2. Regulatory reform of the water sector in Italy



(source: Supervising Committee on Use of Water Resources annual reports, 1996-2008)

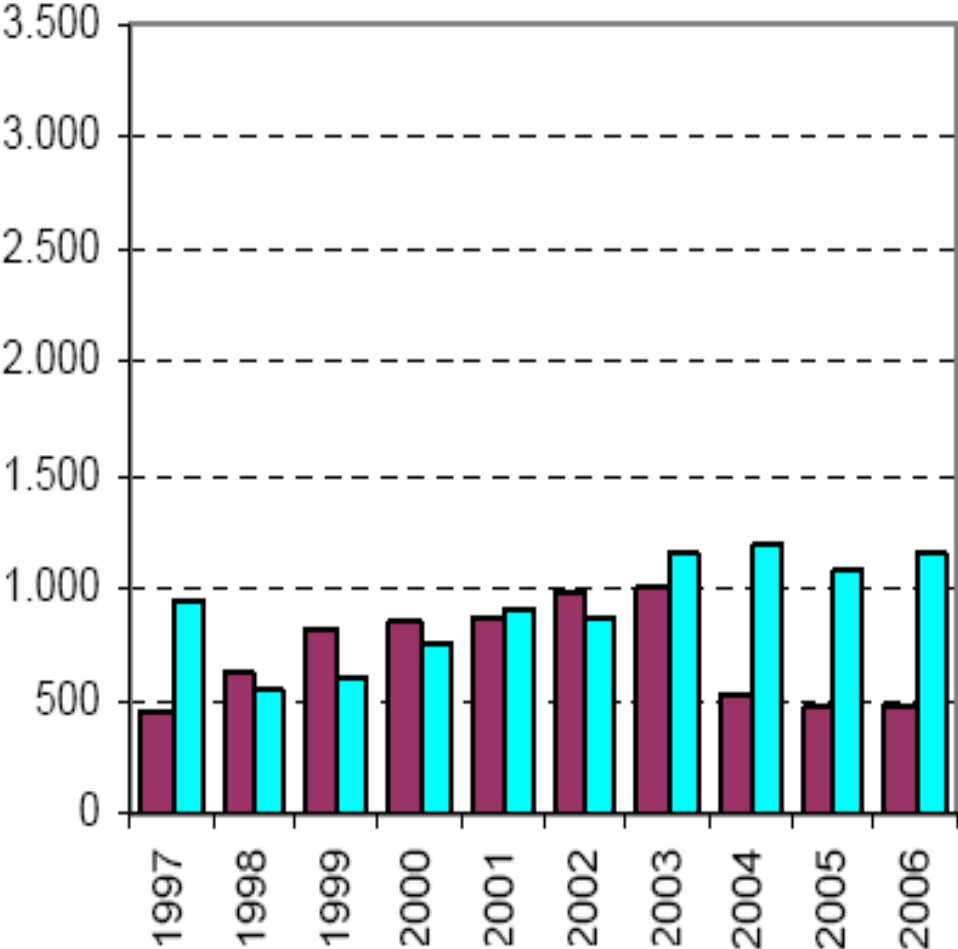
2. Regulatory reform of the water sector in Italy



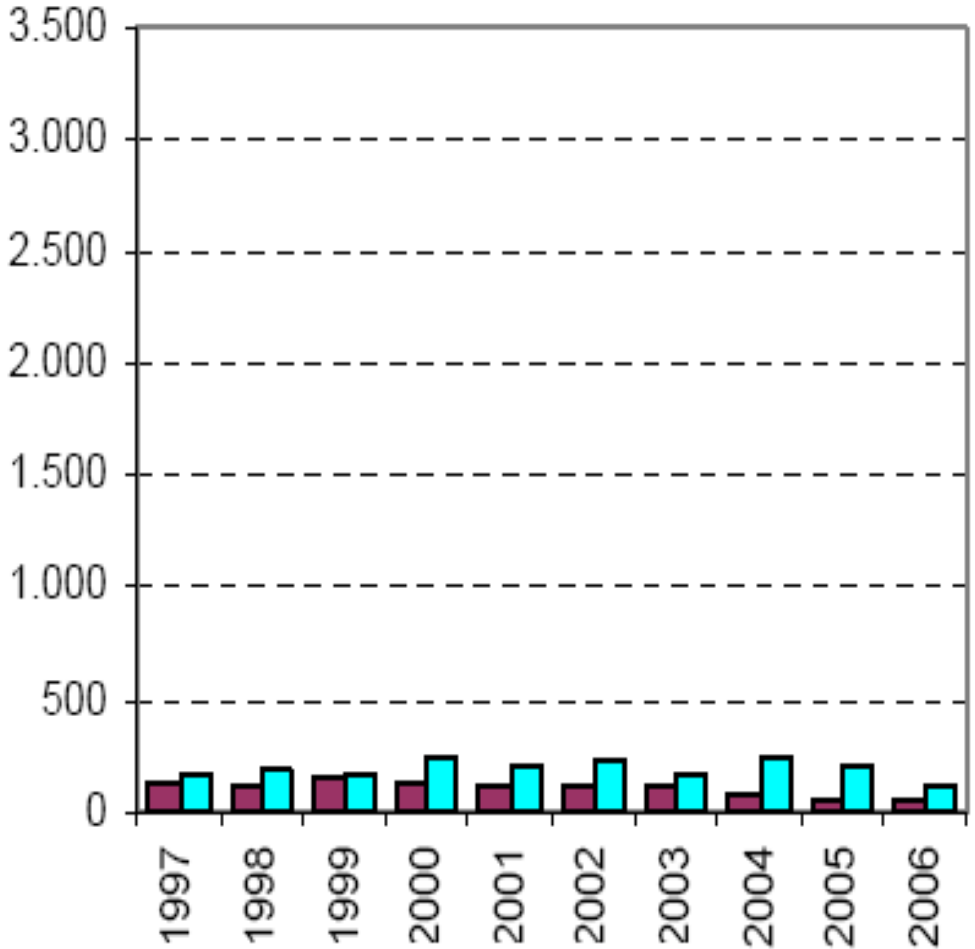
(source: Bluebook, Utilitatis, 2008)

2. Regulatory reform of the water sector in Italy

Investments in water collection and distribution infrastructure (€ m)



Investments in sewage infrastructure (€ m)



- Public sector & non-profit entities
- Business companies (including those local government-owned)

(source: ISTAT, 2008)

2. Regulatory reform of the water sector in Italy

Some questions for discussion:

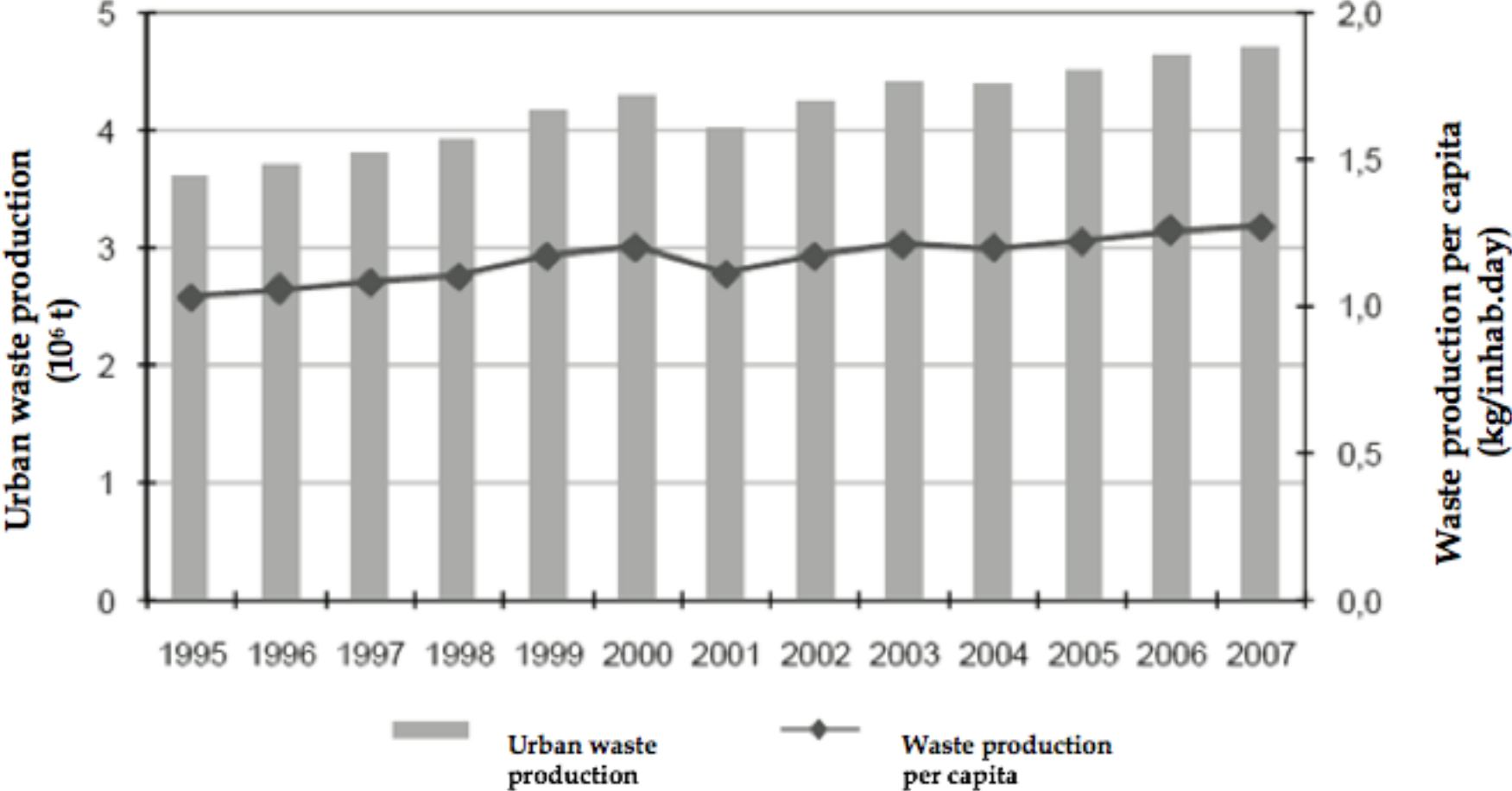
- Several local governments resisted the implementation of the 1994 water reform. What can we learn from this case about implementing regulatory reforms where sub-national governments are not willing to cooperate?
- After the reform implementation, water and sanitation services are organised and regulated in different ways across the country. How desirable do you think such variety is?
- What are apparent advantages and disadvantages of the multi-level regulatory arrangement in the sector?

2. Regulation of the urban waste sector in Portugal

- Increased pressure to comply with EU directives in 1990's, a two-tier system was created in 1990's
- at the regional level the state, possibly in partnership with local governments and businesses, manage wholesale waste treatment
- at the local government, municipalities manage waste collection
- sector-specific regulator (IRAR, later ERSAR)



2. Regulation of the urban waste sector in Portugal



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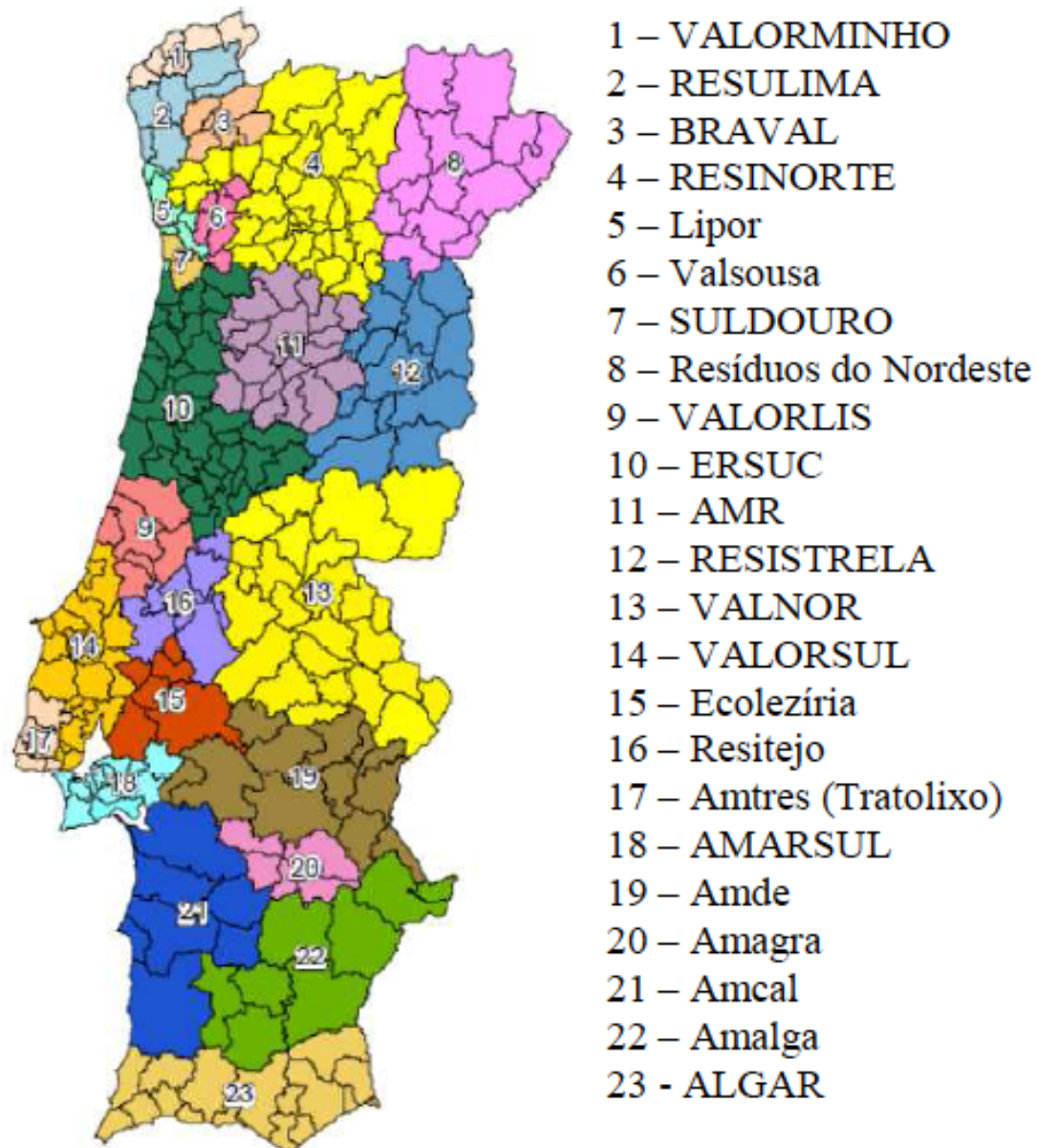


Fig. 2.9 - Existing SGRSU in mainland Portugal in 2011 (source: APA, 2011b).

2. Regulation of the urban waste sector in Portugal

Some questions for discussion:

- The urban waste regulator has no ‘strict regulatory powers’, i.e., no tariff setting nor sanctioning, but it performs ‘sunshine regulation’ by requiring disclosure of performance information. How effective do you think this policy (‘name and shame’) is?
- Generally the urban waste sector still lacks attaining financial self-sufficiency, full cost recovery, and production efficiency. What should be done to correct it?
- What are apparent advantages and disadvantages of the multi-level regulatory arrangement in the sector?

Thank you!

At SOAS, I am director of the Distance Learning MSc Public Policy and Management and MSc Public Financial Management programmes.

One of the modules is “Infrastructure and Utilities Regulation”, which I authored and where you can find more about regulation!

For any information, please email: aa144@soas.ac.uk



Regulation of Infrastructure & Utilities

C380

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Introduction

This module examines the theories and rationales of the regulation of infrastructure and utilities.

tries, it will examine current debates on
tion, including regulatory discretion and
e design of regulatory systems.

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UNIVERSITY OF LONDON