

## *Provision of Public Services in European Countries: From Public/Municipal to Private and Reverse?*

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The institutional development, which the provision of social and public services has undergone since its early beginnings in the 19<sup>th</sup> century, is analysed. At the beginning, certain social services and public utilities were provided by municipalities and municipally owned enterprises, forming local welfare state. The national welfare state was the most developed in the 1960s. Since the 1980s, these services are under the impact of neo-liberal policy, the New Public Management concepts, and the European Union market liberalization policy. European Union law has developed its own legal definition of public services and labelled them as services of general economic interest. The development in five countries is analysed: United Kingdom, France, Germany, Italy, and Norway. Cross-country institutional commonalities and variance, as well as the factors that have impinged upon such country-specific trajectories are iden-

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tified. The article, theoretically based on neo-institutional theory, focuses on energy provision. The main conclusion is that public utilities sectors in analysed countries show significant signs of re-municipalisation.

*Key words:* public services, services of general interest, institutional development, energy provision, local authorities, municipal enterprises

## 1. Introduction

1.1 *Guiding question.* The paper<sup>1</sup> aims at discussing the institutional development that the provision of social and public services underwent since its early beginnings in the 19<sup>th</sup> century, the advances of the national welfare state climaxing in the 1960s, and the institutional changes service provision has experienced since the 1980s under the impact of internationally prevalent neo-liberal policy and New Public Management concepts as well as the European Union market liberalization policy. By analysing the different phases of this development, the paper intends to identify cross-country institutional commonalities and variance and the factors that have impinged upon such convergent or divergent country-specific trajectories.

1.2 *Definition of social and public services.* In defining the policy areas under discussion, *social services* are services for people and families. They include childcare (Hill et al., 2010), long-term care for the elderly, frail and disabled persons (Bönker et al., 2010) as well as health services (Grunow et

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<sup>1</sup> The article is indebted to the work of, and cooperation with, an international research group which, consisting of scholars from Germany, France, Italy, the U.K. and Norway, was convened by Gérard Marcou and the author and met in a series of three research conferences at Villa Vigoni, Italy between 2007 and 2009. The articles that emerged from this research project have been published in Wollmann and Marcou, eds., 2010a. See also the articles referred to and quoted in the following contribution, including the summarizing piece by Wollmann and Marcou, 2010c. The article is to a certain extent based on the revised version of a discussion paper that was originally presented at an international workshop organized, inter alia, by IPSA RC 32, Croatian Political Science Association and the Institute of Public Administration, Zagreb and held in Dubrovnik on June 10–11, 2011. This revised version was presented to a panel at the 2011 conference of the Association Française de Science Politique held in Strasbourg on September 1–2, 2011.

al., 2010). Out of these services, long-term care will be addressed in the following.

As to (economic) *public services*, the terminology and substantive meaning differ from country to country (Wollmann and Marcou, 2010b: 1 ff.). The term *public utilities* is commonly used in Anglo-Saxon countries, in the U.K. and the U.S.A., and is focused on the industrial dimension of services. This notion is similarly employed in other European countries, for example, in Italy (*servizi pubblici* or *servizi di pubblica utilità*) and in France (*services publics industriels et commerciaux*). In Germany, the expression *Daseinsvorsorge* (that can be translated as provision for existence) has gained wide currency. With the process of European integration, EU law has developed its own legal definition and labelled them as *services of general economic interest*. The public services essentially comprise water supply (Citroni, 2010), waste management (Dreyfus et al., 2010) as well as energy provision (Wollmann et al., 2010).

The article focuses on energy provision.

1.3 *Country selection*. In line with the referred to international research group, the selection of countries under discussion in this article is led by the plausible assumption that the U.K., France and Germany are exemplary types of European government systems and of their respective public service traditions showing commonalities and differences that allow insightful comparative analyses. The Italian case looks analytically attractive, having so far been often neglected in pertinent comparative studies. Lastly, Norway has been included as its energy sector makes almost for a deviant case.

1.4 *Institutional and historical approach*. While focusing on institutional developments, the paper aims at detecting *developmental* patterns and tracks over time by pursuing an explicitly *historical* approach. Hence, several historical phases and stages will be briefly sketched in order to identify continuities, discontinuities, and the factors impinging on them.

1.5 *Conceptual framework*. In analysing and explaining the institutional development of public service delivery (as, methodologically speaking, a dependent variable), the paper draws on the neo-institutionalist debate (see Peters, 1995, for an overview) in which it is hypothetically assumed that institutional developments are influenced particularly by three factors.

- First, by historical institutional givens (traditions, legacies etc.) as highlighted by the historical variant of institutionalism (Thoenig,

2003). Historically entrenched institutions and legacies may define the further course of institution building and institutional choice in what has been called *path-dependence* (see Pierson, 2000, with references).

- Second, by actors, their constellations and coalitions, political goals and calculations, *will and skill* as emphasized by rational actor or actor centred institutionalism (Scharpf, 1997, 2000).
- Third, by (political, economic etc.) ideas, frames (Rein and Schon, 1991), concepts, beliefs that underlie, inspire and shape relevant decision-making and decision-making arenas on institution building and institutional choice. In the concept of *discursive* institutionalism (as introduced by V. Schmidt, 2002) the discussion of ideas, frames, and beliefs is captured under the term discourse which is understood as breaking and providing the argumentative and legitimizing ground for the pertinent decisions. Such discourses may take place in national, local but also international arenas. They may be carried on and promoted by discourse coalitions (see Wittrock et al., 1991: 28 ff.; Singer, 1993: 149 ff.) or advocacy coalitions (Sabatier, 1988) whose bearers (Derlien, 2000: 166) may be made up of politicians, academics, consultants, etc. and may impinge more or less directly on the decision-making process (Singer, 1993: 157). The discourse arena and process may be seen as a struggle for discourse dominance, because of which the dominant opinion may reflect the opinion of the dominants.<sup>2</sup> The trans-national as well as intra-national discourse may serve as a vehicle for policy (or institutional) learning (Rose, 1993; Dolowitz and Marsh, 1996) or institutional *mimetism* (DiMaggio and Powell, 1983).<sup>3</sup>

## 2. Historical Origins of Public Service Provision

In the 19<sup>th</sup> century, during the process of industrialization and urbanization, which became rampant first in Britain and then proceeded in Germa-

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<sup>2</sup> See the German word play: »die herrschende Meinung ist die Meinung der Herrschenden«.

<sup>3</sup> For earlier attempts of the author to make use, in institutionalist analyses, of the »discourse« concept see Wollmann, 1996; 2002; 2004.

ny, the prevalent (Manchester liberal) political and economic belief was that the central government levels could and should largely abstain from intervening in the socio-economic processes at the local level, including the provision of infrastructural and technical services. Instead, it was generally assumed that it was up to the local authorities (as well as to the charities) to provide such (elementary) forms of social services and public utilities. Inasmuch as private enterprises engaged in early forms of, say, the provision of public transport and energy, they often went bankrupt so that, in many cases, the local authorities were called upon to take over. In sum, an early form of a local welfare state took shape that was identified and derided by contemporary conservatives and liberals as municipal socialism.

Taking the provision of energy as a case in point (see Wollmann, 2007a; Wollmann et al., 2010, for details), such municipalisation of energy provision historically occurred in England (McEldowney, 2007). In Germany, too, reflecting the emerging concept of broad local government responsibilities in urban services, a type of a municipally multi-functional (multi-utility) enterprise appeared called *Stadtwerke* (citywork), which not least engaged in local energy provision (Wollmann, 2007b).

Norway embarked on a path on which, due to the plentiful existence of waterfalls and geographical separation of the localities by fjords, a multitude of small municipally owned hydro-power stations has become typical (until this very day) (Baldersheim and Claes, 2007).

France took to a distinctly different course as, probably due to their predominantly small size, municipalities tended, since the end of the 19<sup>th</sup> century, to turn the provision of public services, in an early form of outsourcing (*gestion déléguée*), over to outside (private or public) providers (Lorrain, 1995; Marcou, 2001).

### 3. Emergence and Climaxing of the Modern National Welfare State

Setting in since the beginning of the 20<sup>th</sup> century, further progressing after the Second World War and climaxing during the 1960s and early 1970s, the advancing and advanced (national) welfare state revolved around the idea of the State taking on and exercising extended public functions and responsibilities of the State, not least in the field of social and public services. Moreover, it hinged on the belief that public functions were best

carried out and implemented by the public sector and its professional personnel. This far-reaching expectation and trust in the public sector centred welfare state was typically rooted in Social Democratic thinking and beliefs.

Exemplar was Sweden, where since the mid-1930ies, under Social Democratic rule, the Swedish Model evolved in which the central government level was ascribed comprehensive welfare state responsibilities while the local authorities were assigned broad operative tasks in what was labelled a local (welfare) state (*den lokala staten*; Pierre, 1994).

After 1945, under the incoming (quasi-socialist) Labour Government, Britain became the most pronounced example of the public sector-centred welfare state, which included the nationalization of energy sector in 1947, of water supply in 1948 and the creation of the National Health Service in 1958. Typically, the local government level was assigned comprehensive tasks in social service provision that were carried out almost entirely by local government personnel proper. Thus, the post 1945 British State was almost the epitome of a public sector/municipal sector-centred consummate welfare state.

Post-1945 West Germany, which was governed, *nota bene*, by a conservative-liberal coalition government, also moved towards an advanced welfare state profile. Linking up with the traditional concept of multi-functional local government model, the local authorities further pursued and expanded the delivery of public and social services in the broad spectrum of *Daseinsvorsorge* through their own personnel and through their *Stadtwerke*. However, there was an important exception – the social services were, under the subsidiarity principle, largely rendered by non-public non-profit (so-called welfare) organizations (Bönker et al., 2010).

In post-1945 France, in line with the unitary Napoleonic State tradition, the (Gaullist) government's post-war modernization push was distinctly public sector-centred with the central state and its departmental and local level field administration playing a crucial role, while the local government level played an all but marginal part (Wollmann, 2008b: 104 f.; Kuhlmann, 2009: 81 ff.).

Taking again the energy sector as a case in point:

- In Britain, the energy sector was nationalized in 1947.
- In France, in pursuit of the post-war modernization concept of de Gaulle's government, the energy sector was nationalized in 1946 ushering in the establishment of EdF and GdF as state-owned (monopolist) corporations. Only a sprinkling of municipally own energy enterprises that were left immune from nationalization.

- Italy followed suit with nationalizing its energy sector in 1962 and with establishing state-owned (monopolist) ENEL. Only a few municipal corporations survived nationalization.
- In Germany, the energy market was divided between a number of large private-law stock companies that held the lion's share of the market and municipally owned companies, mostly in the organizational form of multi-utility »Stadtwerke«.
- Norway's energy provision continued its path-dependent track of hinging on a multitude of small municipally owned hydropower plants.

#### 4. Since the 1980s: Move towards Marketization and Privatization

Since the 1980s, the model of public sector-centred (Social Democratic) welfare state and service delivery model has been challenged by three interrelated political and conceptual currents (Wollmann and Marcou, 2010c: 241).

For one, the functional scope of (Social Democratic) welfare state was criticised, under the neo-liberal assumptions, for its alleged excessive size. Instead, what was advocated was the concept of a lean state that would retreat from previously taken public tasks and leave these, by way of (material/asset) privatization, to the private sector.

Second, the hitherto prevalent public sector-centred profile in the provision of social and public services was attacked for its operational rigidity and economic inefficiency. Redress and relief was seen in reducing the public sector essentially to an enabling function, which, by way of marketization and competition, would involve the private sector in fulfilling public tasks.

Third, the traditional preponderance of the Weberian administrative model was chastised for its internal hierarchical rigidity and for giving priority to compliance with legal(ist) provisions over economic efficiency. Instead, managerialist principles borrowed from the private sector were meant to be introduced into public administration in order to flexibilise (»let managers manage«) and economise its operations.

The neo-liberal and managerialist discourse received its initial thrust in the UK, after 1979, under Margaret Thatcher's Conservative regime,

spread first to the other Anglophone countries and then to other European countries. The »bearers« (Derlien, 2000) and advocates of the new creed were primarily economists and consultants who began to dominate the pertinent political and administrative reform hitherto under the sway of »traditionalist« public administration experts and lawyers (Wollmann, 1996; 2002; 2004). The increasingly internationalized discourse proved a crucial vehicle and channel of promotion and consolidation of the neo-liberal and managerialist beliefs.

Since the late 1980s, the European Union has increasingly influenced the national discourse and policy arenas of its member states as it proclaimed and committed itself to the prime goal of achieving a single (i.e. the EU-wide) market for goods, services and capital. Its ensuing market liberalization policy essentially aimed at deregulating and breaking up national, regional and local (protected) markets (Wollmann and Marcou, 2010b: 2 ff. with references). The EU has pursued its market liberalization strategy through (primary, i.e. directly binding) EU regulation as well as (and first of all) through (secondary) directives which the national member states are held to translate (transpose) into (binding) national legislation. With regard to public services/utilities (in the EU parlance: services of general economic interest) this has applied particularly to energy provision (Wollmann, 2007a; Wollmann et al., 2010), water provision (Citroni, 2010) and waste management (Dreyfus et al., 2010).

The development in the energy sector will be taken as a case in point.

In Britain, where in 1947, under the Labour government, the entire energy sector had come under state ownership and management, this situation was dramatically reversed in 1989 by the Conservative government under Margaret Thatcher which, in pursuit of its neo-liberal strategy to dismantle the country's (in its view oversized) public sector, decided to (asset) privatize the energy sector by selling it to private companies. At the same time, the 1989 legislation introduced the concept of unbundling, that is, of organisationally separating the three key functions of energy provision, to wit, the generation, grid-based transmission and distribution/supply to consumers. The rationale and leitmotif of unbundling is to promote price competition in the energy market by ensuring discrimination-free access to the transmission grids for producers and suppliers. The Conservative government's unbundling concept served as a conceptual and institutional lesson for the EU in its subsequent pertinent policy moves (see McEldowney, 2007, for details).

In Norway, where electricity had traditionally been provided entirely by the municipal sector, that is, by the multitude of small municipally owned hydropower plants, major changes in the system occurred in 1990 as well.



While the hydro powered plants and short-distance transmission grids continued to be owned and operated by municipalities, a national electricity agency was established as a key market mechanism that was meant to operate the national grid, to absorb the locally generated electricity, and to provide (sell) it to the consumers at market-regulated prices (see Baldersheim and Claes, 2007, for details; Wollmann et al., 2010).

During the 1990s, the political discussion and public discourse about the need to have more competition on the national energy markets gained momentum in other EU member countries, too. In the promotion of such debates, discourses and controversies, the EU played an increasingly important role, particularly by way of issuing directives that EU member states were held to transpose into their national legislation and instruments. Among these EU initiatives, the Acceleration Directive (2003/54 of June 26<sup>th</sup> 2003) loomed large and, drawing on the UK and the Norwegian examples, obliged member states to organisationally unbundle the three key functions of energy provision (generation, transmission and distribution) and to ensure the discrimination-free access to the transmission grids as a key mechanism of competition. Furthermore, the EU Directive mandated the member states to establish a national regulatory agency as a watchdog over the compliance with the competition rules.

Due to different country-specific starting conditions of the national energy markets (different mix of state, private or municipal energy companies, different national energy policies and discourses, etc.) the response to the EU market liberalization drive at the national and local levels was variegated.

Countries which decided to nationalize their energy sectors after 1945 (France in 1946: EdF, GdF; and Italy in 1962: ENEL) responded by moving towards formal or organizational privatization of their state-owned energy enterprises (see Grossi et al., 2010, for the distinction between formal/organisational privatization, which they call corporatization, and asset/material privatization).

In France, the national discourse on energy policy has been shaped by the French government's inclination to pursue national interest-focused (all but protectionist) industrial weary of international competition. Simultaneously, since electricity generated from nuclear power, which makes up to 80 per cent of the entire electricity production in France, has made possible a comparatively low energy price, it is still perceived that there is little need, even in the public discussion, to have more competition. Nevertheless, in 2004, one of the state-owned corporations – EdF was formally privatized, that is, turned into a private law stock company for which

the share of private stockholders was limited to 30 per cent. Beyond the relatively few existing municipal energy corporations that were exempt from nationalization in 1946, the creation of new municipal enterprises is legally not permitted.

In responding to the EU market liberalization policy, in 1992, Italy transformed the state-owned ENEL, by way of formal privatization (corporatization), into a state-owned stock company obliged to sell shares to outside investors (material privatization). In compliance with the EU directive, an independent regulatory agency (*autorità per l'energia elettrica ed il gas*) was also set up in 1997 to watchdog market competition. The municipal companies (*municipalizzate*) that were exempt from nationalization in 1962 have continued to play quite an important role (Prontera and Citroni, 2007).

Germany offers a particularly interesting case for a number of reasons. For one, in Germany the energy market has been traditionally dominated by the private sector stock companies since, in stark contrast with the UK, France and Italy, the nationalization of the energy sector was a far cry from West Germany's post-war conservative-liberal federal governments and their social market economy beliefs.

At the same time, being part and parcel of the traditionally strong role of multi-functional local government in Germany's intergovernmental setting, the local authorities continue to play a significant role in the grid-based transmission and distribution, but also, to a lesser degree, in the generation of energy, particularly in the traditional form of multi-utility municipal corporations (*Stadtwerke*). In their operational rationale, the *Stadtwerke* are typically expected to provide public services, including energy, to the local community. While mostly operating in organisational as well as financial independence, they are expected, in line with the common good mandate of local government, to act in the best interest of the local citizens and clients. The accepted practice of cross-subsidizing allows them to cover deficits, incurred in, say, public transport, by the profits made in other services, say energy. In pursuing these local goals and commitments, they have come to form somewhat closed local markets, if not local monopolies (Ude, 2006).

On this conceptual and political background, there are evident tensions and clashes that emerged between the concept and interest of the local authorities and their »Stadtwerke« to retain their (as it were, protected) local markets, on the one hand, and the overall aim and commitment of the EU to achieve the single, EU wide market, not least for public utilities (services of general economic interest) and to, thus, do away with protected local markets and local monopolies, on the other hand.

It is small wonder that the municipalities saw a threat to their traditionally conceived role, function and existence in the EU's market liberalization policy, including its unbundling strategy. Consequentially (and at the end successfully), they urged the federal government to get the EU to agree to largely exempt the German *Stadtwerke* from the unbundling rule.

In its first phase, the EU market liberalization policy and its transposition into the German national legislation had a somewhat paradoxical effect of accelerating the concentration in the energy market and of strengthening the market dominance of the »Big Four« (E.on, RWE, EnBW, Vattenfall, the latter being Swedish state-owned energy company). At the same time, the share and role of the municipal energy companies, primarily of the *Stadtwerke*, began to shrink. To begin with, they gave way to the competitive strength of the Big Four by either giving up or by selling minority shares of their assets (grids, power plants) to them. Then, under the budgetary squeeze aggravated by the high fiscal costs of the German Unification, many of the municipalities saw themselves compelled to cash in on their assets in order to receive short-term liquidity. The decline of the *Stadtwerke* was captured in the public debate as »the demise of the *Stadtwerke*« (*Stadtwerkesterben*). For some observers the then dwindling of the *Stadtwerke* was interpreted, along with other budgetary plight-related functional losses, as foreboding the traditional German local government becoming defunct (Wollmann 2000, 2002, 2003).

The trend towards marketization and private sector-based delivery of public services could, at that stage, be also observed in water supply (as another type of grid-based service) and in waste management in other European countries (see Citroni, 2010, for water supply; and Dreyfus et al., 2010 for waste management). Available evidence points at the significant effect of EU market liberalization policy as well.

## 5. Pendulum Swinging Back? »Come Back« of Public/Municipal Sector Based Service Provision?

There are empirical indications that in recent years a comeback of public/municipal sector based provision of public services has been gaining momentum and that a pendulum swing towards a »re-municipalisation« is under way (see Wollmann and Marcou, 2010c: 256)

In Germany, the energy provision sector offers a striking example of such »re-municipalisation«.

Local authorities have, in growing numbers, begun to buy back pertinent assets that they previously sold to private investors, to establish new facilities, or to expand the existing ones. In an increasing number of cases, the municipalities and their *Stadtwerke* have turned to operate the local grids themselves, if and when the long-term concession contracts, through which they previously outsourced the operation of the grids to external providers, expire. Thus, the expiration of such concession contracts proves a crucial lever for the municipalities to reassert themselves in the local markets.

By establishing cooperative networks, neighbouring municipalities and counties have gathered operational and financial muscle to form larger intermunicipal energy corporations in the form of intermunicipal *Stadtwerke* (see Schäfer, 2008, for the pilot case of the city of Bergkamen; Verbuecheln, 2009, for an overview of instructive cases). More recently, the »Big Four« have exhibited a growing readiness and interest to retreat from local transmission grids and to give up their previously acquired minority shares in individual *Stadtwerke* (for the much publicized case of Thüga, a subsidiary of E.on which was (re-)purchased by a consortium of several *Stadtwerke* for the amount of €3 billion,<sup>4</sup> see also Kuhlmann and Wollmann, 2011: 166, for more examples).

Which factors have driven this development?

First, the rationale and logic of the (asset/material) privatization of the provision of public services that was proclaimed and propagated in the neo-liberal and market liberalization discourse has in the meantime been seriously challenged, if not shattered in the operational and local practice. Whereas it was originally promised and predicted, under the slogan »private is superior to public«, that private sector-rendered services would be qualitatively better and economically more efficient than public sector-rendered ones, in the meantime the empirical evidence has plausibly suggested that often the opposite is true. As soon the private provider has arrived at dominating the respective market and at squeezing out competition, the quality often tends to deteriorate and the prices and tariffs tend to go up, while the working conditions (salaries, etc.) of the workforce and employees tend to worsen. In view of the dissatisfaction and disappointment of local citizens with privatized services, local politicians see the reason to get the provision of services back under their own responsibility.

<sup>4</sup> See Süddeutsche Zeitung, August 13, 2009 »Energy rebels on the buying trip«

Second, the municipalities have become aware that, at least in the medium and long run, it is economically and financially more beneficial for them to retain and expand their activities in the service provision instead of abandoning and selling them to private providers for a short-term liquidity gain.

Third, following from the privatization rationale, private sector providers, which are mostly single function providers, are typically primarily interested in maximising the profit in their respective single function while ignoring other objectives and possibly externalizing the related costs. By contrast, through re-municipalisation, the local authorities can regain a handle to meet the multiple goals that are typical of the traditional multi-functional model. Making profits in the energy sector enlarges their financial scope to cross-subsidize the services that are structurally deficit-generating, such as public transport.

Fourth, whereas the municipalities and their municipal corporations were at first shocked and discouraged by the appearance of strong outside private sector competitors, they have often learned to build up skills and competences to cope with the new competitive environment and challenge remarkably fast. The energy sector is a good example of the growing capacity of municipal enterprises to assert themselves in the competition with private sector providers.

Fifth, the energy sector has already shown a significant potential of the local government level with regard to energy saving and renewal energy policies (Müschen, 1999). For a long time, the local government level and their municipal enterprises have stood out in the application of energy saving techniques, such as power coupling (Bolay, 2009; Praetorius and Bolay, 2009). In view of the fact that the German federal government has decided to terminate nuclear power generation by 2022, the role of local level power generation of the energy saving and renewable power is bound to gain even further salience.

Sixth, it should be highlighted that in the intergovernmental multi-layer setting of the EU, national government and local government levels, the interest constellation has significantly changed with regard to the role of local government in public service provision. This is particularly true for the energy sector.

To begin with, both the EU and the national/federal government have come to re-assess and welcome the local authorities and their municipal enterprises as competitors vis-à-vis powerful national and international providers.

Furthermore, the local authorities and their municipal enterprises are perceived and welcomed by both the EU and the national government, as an ever more important partner and ally in the pursuit of energy saving and renewal energy generation, particularly under the auspices of environmental protection policies.

In Italy, municipal corporations (*municipalizzate*), particularly in big cities, have recently shown interest and the economic potential to expand their role on the national energy market, for instance, by continuing to buy ENEL stocks and by expanding the generation, transmission and supply of energy (Prontera and Citroni, 2007).

Beyond the energy sector, other public utility sectors show signs of re-municipalisation, which the brevity of this paper limits to be but mentioned briefly.

In the field of water supply, this happens in Germany (Citroni, 2010) as well as in France. In the latter case the provision of water has historically been outsourced to outside providers (*gestion déléguée*) based on long-term concession contracts, particularly to big international (predominantly French) water companies. The most conspicuous case of re-municipalisation was the decision of the City of Paris to retake water provision into its own hands in 2009, after the expiration of the existing long-term concession contracts. In another recent example, the City of Grenoble followed suit (Kuhlmann and Wollmann, 2011: 167 with references).

Another set of striking examples of re-municipalisation can be found in the field of waste management (see Verbüchelen, 2009, for an overview; Dreyfus et al., 2010).

## 6. Summarizing and Concluding Remarks

It has been argued in the paper that the re-municipalisation of public services provision in Germany has evoked mounting attention in local level discourse and practice (see Röber, 2009; Verbücheln, 2009; Libbe and Hanke, 2011; Kuhlmann and Wollmann, 2011: 165 ff., for overviews and further references). While the paper has singled out and focused on the energy provision in Germany, empirically grounded, albeit episodic rather than systematic, evidence has been offered for the thesis and claim that a more general trend towards a comeback of the municipal sector might be seen in the other public utility sectors and in other pertinent countries.

At this point, it should be noticed that a general mood and re-orientation appear to have arisen and consolidated in favour of retaining and possibly returning the provision of public services to the direct political and operational responsibility of the local authorities.

In Germany, this has conspicuously shown in the growing number of binding local referenda in which the (material/asset) privatization of municipal *Stadtwerke* has been rejected by the local population – in defiance and revocation of contrary decisions already taken by the elected councils (Kuhlmann and Wollmann, 2011: 168 ff. with references). The most recent striking example of what is arguably a mounting privatization-adverse popular groundswell in other countries is the national referendum which was held in Italy on June 14, 2011 and in which the privatization of the water sector as proposed by the Berlusconi Government was rejected by an overwhelming majority.

It seems remarkable and indicative that, explicitly with regard to the services of general economic interest, the EU has recently attenuated its previous rigor on single market liberalization, which, it should be recalled, has proven a powerful lever for (asset) privatization in the field of public services. In the Treaty of Lisbon of December 2009, the EU attenuated its pressure both on the member states and on their subnational levels. In the »protocol services of general interest«, the EU explicitly recognizes »the essential role and the wide discretion of national, regional and local authorities (sic! H.W.) in providing, commissioning and organizing services of general economic interest as closely as possible to the needs of the users« as well as »the diversity between various services of general economic interest and the differences in the needs and preferences of users that may result from different geographical, social or cultural situations«. In other words, a remarkably wide decision-making scope and discretion has been conceded to the national member states but also to the individual local authorities in determining the institutional form of service delivery.

It is worth adding that the comeback of municipal sector-based public service provision might be interpreted, in more general terms, as a functional and political strengthening of local government within the intergovernmental and multi-layer setting of the national states and of the EU. Incidentally, this is prone to refute the fear voiced by some that local government, not least due to their shrinking role in public service provision, has been facing the threat of being phased out (Wollmann 2000; 2002; 2003). It should be highlighted that in the Treaty of Lisbon, for the first time in EU's constitutional law, local self-government has been expli-

citly recognized,<sup>5</sup> including the subsidiarity principle as a shield against unwarranted interference from above.<sup>6</sup>

Finally, the comeback of public sector/municipal sector-based public service provision should be placed in a more general, even global perspective. While the disenchantment and sobering experience with neo-liberal and marketization promises (»better services for less money«) has entered and shaped the relevant local level discourses on the private sector based service provision and has ushered in a comeback of municipal sector based provision, it has mirrored and has been embedded in a disillusionment with the neo-liberal creed which has gained momentum in the international and global space in the face of the world-wide havoc made by the financial crisis and of the fatal role unfettered market forces have played in it. It may well be that »9/11«, which called for the state as a guarantor of security, followed by the quasi melt-down of the financial markets and the ensuing call for the state to have a bailing out and regulating role, may harbinger a comeback of the State with a capital S. In this interpretation, the re-municipalisation of service provision would be just a local level echo.

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<sup>5</sup> Article 3a section 2 of the Treaty of Lisbon: »The Union shall respect the equality of Member States before the Treaties as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government. It shall respect their essential State functions, including ensuring the territorial integrity of the State, maintaining law and order and safeguarding national security. In particular, national security remains the sole responsibility of each Member State.«

<sup>6</sup> Article 3b section 3 of the Treaty of Lisbon: »Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level.«



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PROVISION OF PUBLIC SERVICES IN EUROPEAN COUNTRIES:  
FROM PUBLIC/MUNICIPAL TO PRIVATE AND REVERSE?

*Summary*

*The paper aims at discussing the institutional development that the provision of social and public services has undergone since its early beginnings in the 19<sup>th</sup> century. At that time, certain social services and public utilities were provided by municipalities and municipally owned enterprises. This can be labelled as local welfare state. The national welfare state was the most developed in the 1960s. Since the 1980s, these services have been under the impact of neo-liberal policy, the New Public Management concepts, and the European Union market liberalization policy. European Union law has developed its own legal definition of public services and labelled them as services of general economic interest. The development in five countries is analysed: United Kingdom, France, Germany, Italy, and Norway. Cross-country institutional commonalities and variance, as well as the factors that have impinged upon such country-specific trajectories are identified. The article, theoretically based on neo-institutional theory, focuses on energy provision. The main conclusion is that public utilities sectors in analysed countries show significant signs of re-municipalisation, i.e. strengthening the role of local authorities and their municipal enterprises in providing services of general economic interest. This is perceived to be a result of the political strengthening of local government within the intergovernmental setting of the national states and of the EU.*

*Key words: public services, services of general interest (EU), institutional development, energy provision, local authorities, municipal enterprises*

## OBAVLJANJE JAVNIH SLUŽBI U EUROPSKIM ZEMLJAMA: OD JAVNOG/LOKALNOG DO PRIVATNOG I NATRAG?

### Sažetak

*Analizira se institucionalni razvoj u obavljanju socijalnih i drugih javnih službi od njihovog početka u 19. stoljeću. U to su vrijeme određene društvene i druge javne službe obavljale lokalne samouprave i poduzeća u njihovu vlasništvu, pa se takav institucionalni aranžman može zvati lokalnom državom blagostanja. Nacionalne države blagostanja bile su najrazvijenije 1960-ih. Od 1980-ih javne su službe pod utjecajem neoliberalnih politika, koncepta novog javnog menadžmenta, te politike tržišne liberalizacije Europske unije. Pravo EU je razvilo svoju definiciju javnih službi i nazvalo ih službama od općeg interesa. Analizira se razvoj u pet zemalja, Ujedinjenom Kraljevstvu, Francuskoj, Njemačkoj, Italiji i Norveškoj. Identificiraju se institucionalne sličnosti i varijante razvoja javnih službi u njima, kao i faktori koji su utjecali na specifične nacionalne putove razvoja javnih službi. Rad se temelji na neoinstitucionalnoj teoriji, a usredotočuje na opskrbu energijom. Zaključuje se da sektor javnih službi u analiziranim zemljama pokazuje značajne znakove ponovne municipalizacije, tj. jačanja uloge lokalnih vlasti i njihovih komunalnih poduzeća u obavljanju službi od općeg ekonomskog interesa, što je rezultat političkog jačanja lokalne samouprave u okviru nacionalnih država i Europske unije.*

*Ključne riječi: javne službe, službe od općeg interesa (EU), institucionalni razvoj, opskrba energijom, lokalna samouprava, komunalna poduzeća*