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GLOSSARY

<i>Jasmina Džinić</i> : deuterio learning; quality improvement instruments; quality in public administration; organizational adaptation; organizational learning; single-loop learning; double-loop learning; learning organization; quality management	751
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POJMOVNIK

<i>Jasmina Džinić</i> : deuterio učenje; instrumenti unapređenja kvalitete; kvaliteta u javnoj upravi; organizacijska prilagodba; organizacijsko učenje; organizacijsko učenje u jednostrukom krugu; organizacijsko učenje u dvostrukom krugu; učeća organizacija; upravljanje kvalitetom	751
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Public Service Reform in China

Lisheng Dong^{*}

Xuanhui Liu^{**}

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The article reviews the history of public service reform in China. It shows the special path of public service reform in a country transformed from a planned socialist mechanism to a market economy. The public service reform in China is distinctive by its incremental nature. The article is based on the theory of historical institutionalism. The analysis of path dependence of the reform is made from the perspectives of political context, economic foundation, and globalization. The qualitative research method is employed. The article concludes with a summary of current problems and prediction for the future of public service reform in China.

Keywords: public service reform, China, historical institutionalism, path dependence, transition

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1. Introduction

Public service reform gained prominence in the previous decade in China since the articulation of the party-state's policy intent of promoting a service-oriented government.¹ With the economic and social development since the founding of the People's Republic in 1949, the scope and content of public service have changed rapidly. Especially after the reform and opening up policy in 1978, the public service reform has shown the so-called Chinese characteristics, which differentiate China's reform from the former East European communist countries. To some extent, the pragmatic philosophy or dialectic thoughts pay more attention to the effectiveness of the reform regardless of the ideological orthodoxy. It coincides with China's transition from the planned economy to market economy (Jiang, Deng, 2009). The public service reform in China can be distinguished by its incremental nature.

From a theoretical perspective, public service reforms are influenced by internal and external factors in a given country. The public and academic debates frame the policy intent and contents, such as what kind of public service is preferable, who provides the public goods more effectively, how to make sure public service is offered efficiently and how can citizens access the public service equally (Huai, Liu, 2007; Rainey, Steinbauer, 1999). In theory and practice, the content of public service reforms goes along with economic and social development in a specific context. The public service sector also shows a trend of reforms in public administration and the civil service. Further, it can be influenced by such factors as international politics, the pressure of domestic economic development, globalization, and the awakening of civil rights. The institutional changes can explain the trajectory of public service reforms and predict their future evolution.

This article focuses on the transition of public service provision in China with insights into the Chinese experiences. Based on the theory of historical institutionalism, it attempts to review the evolution of public service reform from path dependence perspective. The qualitative research method is employed. The analyses are based on official documents and previous research. The paper is structured into five parts. Following a short introduction, the second part describes the history of public service reform

¹ This concept was put forth for the first time by the Prime Minister Wen Jiabao in February 2004 (see Xu, 2004).

in China. The third part analyses the relevant institutional changes. The fourth part further discusses recent trends emphasising the challenges China faces that are significant to the future of public service reform. The final part summarizes the findings and meaning of the Chinese case in a broader context.

2. The History of Public Service Reform in China

The Chinese scholars have divided the stages of public service reform in China differently, according to their understanding or need of their explanations (He, 2013; Jiang, Deng, 2009; Liu, 2009). In order to give the readers a clear outline, we use a relatively long time frame based on the distinguished characteristics of social and economic changes in China since 1949. Thus, we present the following three stages: the reforms before 1978, from 1978 to 2000, and after 2000.

2.1. Public Service Reform before 1978

The public service system has made rapid and substantive progress in China since the founding of the new communist country in 1949. As in the most of developing counties after World War II, the Chinese public service system was established on the basis of a war-ruined country transformed from a semi-feudal and semi-colonial society. In other words, the foundations of public service were based on very poor conditions. The nation's GDP was only 67.9 billion yuan in 1952 (compared to 40 trillion yuan in 2012; China Statistic Yearbook 1980, 2013) and the majority of GDP was invested in economic reconstruction.

The specific political context determined the features of public service in China. As part of the communist institutions, the main characteristics of public service before 1978 could be summarized into the following four points: highly controlled by government, level-by-level management, highly egalitarian, and highly planned (Liu, 2009; Jiang, Deng, 2009). The Chinese public service was tightly controlled by the government, which monopolized the determination of needs, supply, and distribution of public goods. The basic public service system was established under the omnipotent and omni-prevalent plan system, including public health care, education service, social security provision, employment service, and

others. The public service sector was managed by government at different levels. The central government and local government shared different public financial responsibilities for the public service. The central government controlled the majority of public financial resources while the local governments had little flexibility in public service provision (Yu, 2008).

Another characteristic of public service was egalitarianism, which was also shown as a symbol of social justice in the communist society. The public goods were distributed to urban residents by the state based on work units,² while rural residents had to acquire public goods by themselves. Each village was obliged to decide as a collective on the category and standard of public service (Yu, 2011). The village economy was the main source of revenue for public service supply. Under the sway of the then prevalent political climate, the party-state was preoccupied with class struggle and production while little effort was made to improve public service. The practical guideline was “production first, life amenities second”. Meanwhile, constrained by the backward economic conditions, the central government’s revenue could cover only the basic public services in urban areas while rural public services depended on the village economy. Therefore, the public service was unbalanced between urban and rural areas. China’s national condition was such that farmers accounted for 90 per cent of the whole population in 1952 and the ratio remained as high as 82.1 per cent in 1978 (China Statistic Yearbook, 1980). The rural-urban divide was huge. Rural residents lived self-sufficiently as their ancestors had for hundreds of years before. The public expenditure financed mainly agricultural production and administration, capital construction, new product promotion, and rural relief purposes.

In this stage, the whole country still faced a big gap between the public service supply and people’s needs. Far inadequate amounts were spent on education, housing, and health care in rural areas, while in urban areas, public services were linked to work units, including housing, education, health care, and social security. The average level of public service was rather low in the whole country. Therefore, the main features of public service in the 1949–1978 period can be summarised as substandard, highly planned, and unbalanced.

² Work unit is called *Dan Wei* in Chinese, which means the working place of the people such as a factory, shop, school, hospital and office.

2.2. Reforms from 1978 to 2000

The economic reform of 1978 was a landmark in China. It was also a watershed in public service reform. According to Jiang and Deng, the reforms from 1978 to 2000 could be classified into three sub-stages (Jiang, Deng, 2009).

1978–1984. The six year period saw a recovery of public service. During the ten-year Cultural Revolution (1966–1976), the public service system was seriously damaged. In most provinces, certain vital public services were interrupted. For example, the primary schools and middle schools were closed for three or four years while normal teaching at universities had been suspended for seven years and later resumed operation at a limited scale. Middle school graduates were sent to the countryside to do farming. The heavily reduced public service provision capacity caused by political campaigns even resulted in de-urbanization measures in some cities, such as forcing urban families to move to the country to become villagers.³ During the Cultural Revolution, almost no new infrastructure construction projects were carried out to improve the basic public service. Therefore, when the reforms were launched in 1978, the whole country was faced with a serious shortage in public service supply. For example, in 1978 the percentage of graduates of junior middle schools entering senior middle schools was only 40.9 per cent and there were 1.93 hospital beds per 1,000 residents (China Statistic Yearbook, 1996).

When Deng Xiaoping was reappointed vice prime minister in 1977, the first reform measure he took was to resume the nation-wide university entrance examination system. Meanwhile, the Ministry of Education enacted the regulation of *Strengthening the Management of Teachers in Primary and Middle Schools and Recovering the Higher Education System*. It stipulated that 169 higher educational institutions resume operation. In 1980, primary middle school curricula were reformed. The basic legislation and policies were adopted in the public medical service field, including the policy allowing doctors to open private clinics, the *National Food Security Act*, and the *National Medicine Management Act*. They paved the way for the supervision of public medical service.

³ It was also called *Up to the Mountains and Down to the Villages* (上山下乡), a campaign during the Cultural Revolution that encouraged the educated youth to go to the field to work and to accept poor peasants re-education. As a result, the higher education was practically stopped from 1966–1976.

The main features of this period can be summed up into three points. Firstly, the public service framework continued to function in the era of planned economy, tightly controlled by the central government and executed by local governments. Secondly, education and public medical service were given priority by the reform-minded leaders. Thirdly, some restrictions that prevented citizens and social organizations from entering the public service sector were removed, which was an effective approach to relieving the shortage in public service resources at that time.

1985–1992. Along with economic reforms, the public service reform made obvious progress during the 1985–1992 period. In the education sector, the nine-year compulsory education policy was carried out throughout the country. The enrolment rate of school-age children reached 97.2 per cent in 1992 (China Statistic Yearbook, 1996). The higher education enrolment and graduate students job assignment systems were also reformed. Universities gained a higher degree of autonomy in teaching and management of internal affairs. The system under which the government assigned jobs to college graduates was abolished. Instead, the graduates were pushed into the newly opened job market and had to find jobs by themselves. The government's monopoly of the education sector was broken, allowing citizens and private organizations to run schools and colleges.

In the business sector, social security reforms also made good progress. Domestic economic reforms and the international wave of the New Public Management movement introduced the market mechanism into provision of social security services. Before 1985, the government was fully responsible for social security provision to employees and workers in the public sector. The reform transferred some social security policies, such as old-age pension, disability security, industrial injury programmes, unemployment insurance, health care insurance, etc. from state-owned enterprises to a social pool with the county, the city, or the province as an accounting unit. Previously, each work unit in such a state-owned enterprise had provided these benefits. The new three-party contribution mechanism was introduced according to which the government, employer, and employee shared the premium.

In health care, doctors and nurses were permitted to engage in paid service for additional work in their spare time. Medical service could be contracted out to private institutions. These measures were aimed at expanding the supply of medical services and revitalising the competition mechanism in hospitals.

The main characteristics of public service reform in this sub-stage can be summed up into the following five points. Firstly, the reform attempted to break the government's monopoly of public service supply. Private institutions and citizens were allowed to enter the public service sector for the first time. The reform also encouraged investors of different origins to participate in the public service supply, including overseas businesspeople and private entrepreneurs. Secondly, responsibility for public service was delegated to local governments. Local governments gained a wider autonomy in public service supply and implementation whereas the central government still controlled the macro policymaking. Thirdly, competition mechanism was imported into public service provision through contracting out and other market measures. Public organizations enjoyed greater freedom in their daily management and policy making. Fourthly, the shortage of public service in urban areas was relieved while rural areas remained ignored. Fifthly, the reform attempted to establish a market mechanism for public service provision and a new provision pattern was introduced based on the contract responsibility system, involving the government, work units, social organizations, and citizens.

1992–2000. Along with the widening of market-oriented economic reform, an increasing number of social problems emerged, such as lay-offs from state-owned enterprises (that was something new, since the government's full employment policy meant there had been no such thing as unemployment since the early 1950s); urban residents' increasing demand for public service caused by their improved financial circumstances; and the inadequate financial resources of local governments to cope with the growing public service needs. These problems spurred the central government to take further steps in public service reform. Comprehensive education reforms were carried out, involving education institutional management system, investment policy, recruitment policy and suspension of the government assignment of jobs to college graduates. An increasing number of market mechanisms were introduced into the education sector. As a result, the public expenditure on education increased substantially from 1992–2011 (Table 1). The investment sources were also diversified. Local governments contributed to increasing the amount of educational funds.

Table 1: Basic Statistics on Educational Funds

10,000 Yuan

Year	Total	Government Appropriation for Education	Public Expenditure on Education	Funds from Investors of Private Schools	Donations and Fund-raising for Running Schools	Income from Teaching Research and Other Auxiliary Activity	Tuition and Miscellaneous Fees	Other Educational Funds
1992	8670491	7287506	5387382		696285		439319	
1993	10599374	8677618	6443914	33323	701856		871477	
1994	14887813	11747396	8839795	107795	974487		1469228	
1995	18779501	14115233	10283930	203672	1628414		2012423	
1996	22623394	16717046	12119134	261999	1884190		2610361	
1997	25317326	18625416	13577262	301746	1706588		3260792	
1998	29490592	20324526	15655917	480314	1418537	6091515	3697474	1175700
1999	33490416	22871756	18157597	628957	1258694	7497174	4636108	1233835
2000	38490806	25626056	20856792	858537	1139557	9382717	5948304	1483939
2001	46376626	30570100	25823762	1280895	1128852	11575137	7456014	1821643
2002	54800278	34914048	31142383	1725549	1272791	14609169	9227792	2278722
2003	62082653	38506237	34538583	2590148	1045927	17218399	11214985	2721943
2004	72425989	44658575	40278158	3478529	934204	20114268	13465517	3240414
2005	84188391	51610759	46656939	4522185	931613	23399991	15530545	3723842
2006	98153087	63483648	57956138	5490583	899078	24073042	15523301	4206736
2007	121480663	82802142	76549082	809337	930584	31772357	21309082	5166242
2008	145007374	104496296	96855602	698479	1026663	33670711	23492983	5115225
2009	165027065	122310935	114193032	749829	1254991	35275939	25155983	5435371
2010	195618471	146700670	134895629	1054254	1078839	41060664	30155593	5724045
2011	238692936	185867009	168045617	1119320	1118675	44246927	33169742	6341005
C G	23356525	15634144	14413470		266793	6096208	2937487	1359380
L G	215336411	170232866	153632146	1119320	851882	38150719	30232255	4981625

Source: China Statistic Yearbook, 2013

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Housing reform followed this trend. Housing policy was changed from free provision of apartments to employees and workers by the work units

to commercialization of housing supply by increasing rents and subsidies. In health care, the reform converted a fully government-funded system into the three-party contribution mechanism. The government, employers, and employees shared the burden of medical expenditure. According to the government’s design of healthcare reform, it was to play the supervisory role while hospitals and insurance companies were responsible for people’s daily medical service. Expenditures on health care as percentage of GDP increased from 3.02 in 1978 to 5.36 by the end of 2012 (Table 2).

Table 2: Total Health Expenditure

Year	Total Health Expenditure (100 million Yuan)	Per Capital Health Expenditure (Yuan)		Health Expenditure as Percentage of GDP (%)
		Urban	Rural	
1978	110.21			3.02
1979	126.19			3.11
1980	143.23			3.15
1981	160.12			3.27
1982	177.53			3.33
1983	207.42			3.48
1984	242.07			3.36
1985	279.00			3.09
1986	315.90			3.07
1987	379.58			3.15
1988	488.04			3.24
1989	615.50			3.62
1990	747.39	158.80	38.80	4.00
1991	893.49	187.60	45.10	4.10
1992	1,096.86	222.00	54.70	4.07
1993	1,377.78	268.60	67.60	3.90
1994	1,761.24	332.60	86.30	3.65
1995	2,155.13	401.30	112.90	3.54
1996	2,709.42	467.40	150.70	3.81
1997	3,196.71	537.80	177.90	4.05
1998	3,678.72	625.90	194.60	4.36
1999	4,047.50	702.00	203.20	4.51
2000	4,586.63	813.74	214.65	4.62
2001	5,025.93	841.20	244.77	4.58

2002	5,790.03	987.07	259.33	4.81
2003	6,584.10	1,108.91	274.67	4.85
2004	7,590.29	1,261.93	301.61	4.75
2005	8,659.91	1,126.36	315.83	4.68
2006	9,843.34	1,248.30	361.89	4.55
2007	11,573.97	1,516.29	358.11	4.35
2008	14,535.40	1,861.76	455.19	4.63
2009	17,541.92	2,176.63	561.99	5.15
2010	19,980.39	2,315.48	666.30	4.98
2011	24,345.91	2,697.48	879.44	5.15
2012	27,846.84	2,969.01	1,055.89	5.36

a) Data in this table are at current prices. The 2011 data are preliminary.

b) Since 2006, it has included medical aid expenditure in urban and rural areas.

Source: China Statistic Yearbook, 2013

2.3. Public Service Reforms since 2000

Previous public service reforms and rapid economic growth have made a good foundation for public services in the new century. Public services are able to cover more fields with higher standards (Table 3). In each field, the expenditure has been increased steadily, although the problems remain.

Table 3: Main Items of National Government Expenditure (2012)

(100 million Yuan)

Item	National Government Expenditure	Central Government	Local Government
National government expenditure	125,952.97	18,764.63	107,188.34
Expenditure for general public services	12,700.46	998.32	11,702.14
Expenditure for foreign affairs	333.83	332.39	1.44
Expenditure for national defence	6,691.92	6,481.38	210.54

Expenditure for public security	7,111.60	1,183.47	5,928.13
Expenditure for education	21,242.10	1,101.46	20,140.64
Expenditure for science and technology	4,452.63	2,210.43	2,242.20
Expenditure for culture, sport and media	2,268.35	193.56	2,074.79
Expenditure for social safety net and employment effort	12,585.52	585.67	11,999.85
Expenditure for health care	7,245.11	74.29	7,170.82
Expenditure for environment protection	2,963.46	63.65	2,899.81
Expenditure for urban and rural community affairs	9,079.12	18.19	9,060.93
Expenditure for agriculture, forestry and water conservancy	11,973.88	502.49	11,471.39
Expenditure for transportation	8,196.16	863.59	7,332.57
Expenditure for affairs of exploration, power and information	4,407.68	473.15	3,934.53
Expenditure for affairs of commerce and services	1,371.80	20.09	1,351.71
Expenditure for affairs of financial supervision	459.28	209.59	249.69
Expenditure for post-earthquake recovery and reconstruction	103.81	na	103.81
Expenditure for other regional assistance	126.56	na	126.56
Expenditure for affairs of land and weather	1,665.67	298.08	1,367.59
Expenditure for affairs of housing security	4,479.62	410.91	4,068.71
Expenditure for affairs of management of grain & oil reserves	1,376.29	645.20	731.09
Expenditure for the principal and interest of national debts	2,635.74	2,060.41	575.33
Other expenditure	2,482.38	38.31	2,444.07

Source: China Statistic Yearbook, 2013

The changes in public expenditure from 1978 to 2010 showed the trend of public service reform (Table 4). The priority of public expenditure turned from economic construction to culture, education, health care, and other public services. The share of economic construction in total expenditure shrank from 64.8 per cent in 1978 to nearly 30 per cent in 2010 (Table 4).

Table 4: The Changes of Public Expenditure from 1978–2010

Year	Economic Construction	Culture and education	National defence	Administration	Other
1978	64.80	13.10	14.96	4.71	3.16
1980	58.22	16.20	15.77	6.15	3.66
1985	56.26	20.38	9.56	8.53	5.27
1990	44.36	23.92	9.41	13.44	8.86
1991	42.18	25.09	9.75	12.22	10.75
1992	43.10	25.92	10.1	12.38	8.50
1993	39.52	25.38	9.17	13.66	12.26
1994	41.32	25.92	9.51	14.63	8.61
1995	41.85	25.74	9.33	14.60	8.47
1996	40.74	26.21	9.07	14.93	9.04
1997	39.50	26.74	8.80	14.72	10.24
1998	38.71	27.10	8.70	14.80	10.70
1999	38.40	27.60	8.20	15.30	10.50
2000	36.19	27.60	7.60	17.42	11.19
2001	34.22	27.60	7.60	18.60	12.00
2002	30.26	26.87	7.74	18.60	16.53
2003	28.04	26.24	7.74	19.03	18.94
2004	27.85	26.29	7.72	19.38	18.75
2005	27.46	26.39	7.29	19.19	19.67
2006	26.56	26.83	7.37	18.73	20.51
2007	29.78	27.05	7.14	25.51	10.52
2008	31.47	27.01	6.68	24.67	10.17
2009	33.39	26.42	6.49	20.05	13.65
2010	34.21	28.48	5.93	21.30	10.08

Source: China Statistic Yearbook, 2011

Although the achievements are remarkable, we should notice the problems in public service reforms. Same as with the incremental strategy of China's overall reforms, the most difficult part is always left behind. Public service reforms in China are facing certain challenges, for example, the equality of access to public service, and disparities among social groups and between different regions. These challenges are related to the fundamental institutions.

3. The Institutional Changes and Analyses

The institutionalism theory states that history matters. Paths chosen or designed early on in the existence of an institution tend to be followed throughout its development. Institutions will have an inherent agenda based on the development pattern, both informal (the way things are generally done) and formal (laws, rules, and institutional interaction).

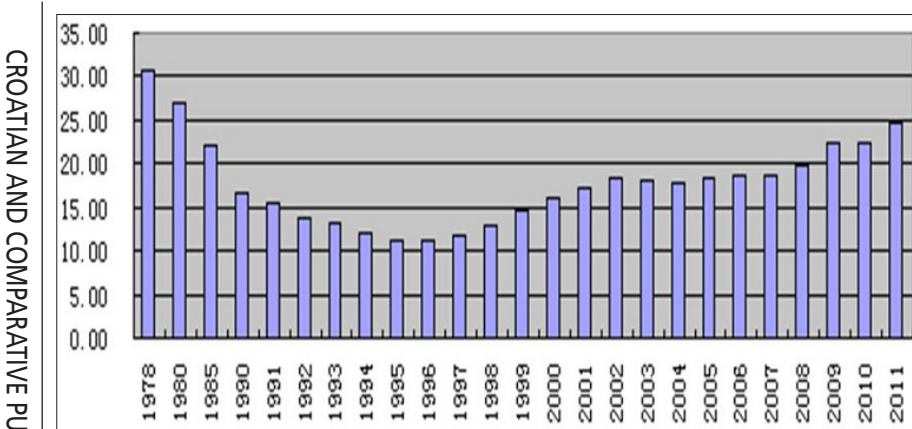
A key concept is path dependence – the historical track of a given institution or polity will result in almost inevitable occurrences. In some institutions, this may be a self-perpetuating cycle: actions of one type beget further actions of this type. However, this theory does not hold that institutional paths will be inevitable forever. Critical junctures may allow rapid change at a time of great crisis.

The theory holds true in the study of public service reform in China. China has followed a different path from reforms in OECD countries because of its different departure point (relatively underdeveloped, centrally planned economy, and one party rule; Burns, 2000). In general, public service reforms support the theory of path dependence. In this section, we will analyse the institutional changes and attempt to explore the path of public service reform in a special context.

The main characteristic of public service reform in China is that it has been carried out in the context of the country's transition from a planned economy to a market economy and that the foundations of public service were poor. This might be a common feature of all countries in transition. The progress of public service reform was determined by the depth of political and economic reform. For 30 years (1949-1978) after the establishment of the People's Republic, the party-state's focus had been on building the basic public service system for urban residents. The newly instituted system was seriously damaged during the ten-year Cultural Revolution. With the successful economic reform initiated in 1978, the

economic foundation for public service got better and more solid. The government became more capable of providing public service and social welfare. The proportion of public expenditure in GDP showed a “V” shape curve from 1978 to 2011 (Figure 1). That is a path characteristic of the country transformed from a planned to a market economy. At the beginning of the reform, public expenditure continued in the circumstances of the planned economy, in which all levels of government shared a major responsibility for public services. With the deepening of the reform, an increasing number of government responsibilities were transferred to the market. The down curve of public expenditure from 1978 to 1996 can be observed from Figure 1. When market reforms had made substantial progress in China, external and internal pressures forced the government to increase the public service spending (Yu, 2008). Thus, the “V” curve in public expenditure. The “V” curve reflects not only the quantitative changes in public expenditure, but also the qualitative improvements in public service and people’s life. Compared with the level of public service in 1978, people now receive more and better public services.

Figure 1: The Proportion of Public Finance Expenditure in GDP (1978–2011)



Source: China Statistic Yearbook, 2012

Why do public service reforms occur in such a specific routine? We can identify the following three points as factors influencing the institutional changes in the public service reform. First, the political context plays a vital role; each time the driving force of public service reform comes from

political reform. The economic reform launched in 1978 gradually built up the momentum of public service reform. However, at the beginning of the transition process, the mentality of the party-state leadership was still restrained by the doctrine of planned economy. They were hesitant to break the basic principles of socialism as defined by Mao Zedong. A major breakthrough was made by Deng Xiaoping's historic tour to Southern China in 1992 when he decided to place China on the track of market economy, putting an end to the debates on the socialist or capitalist nature of the country's reform and on the boundary of responsibilities between the government and the market.⁴ Chinese economy boomed thereafter. In each stage of public service reforms, the final policy reflects results of negotiation on the fundamental issues, such as how to show the advantages of socialism in public service provision, who could offer the public goods efficiently, how to handle the competition between state-owned companies and the private sector in public service supply, etc. The roots of these discussions are always related with the principles of the Communist Party. That is why some scholars claim that the public service reform was determined by the institutional design at the top of political power (Gao, 2013; Yu, 2008). In short, the political context determines and influences the direction and speed of public service reform.

Secondly, the economic basis influences the depth and scope of public service reform. Constrained by the poor economic conditions, the public service could not cover all the fields that people demanded. That was the reason why the reform only started in few sectors as noted previously, such as education, which was the first and most seriously damaged by the Cultural Revolution. As the economic boom augmented the state budget, the reform could be extended to other fields. On the one hand, economic growth brought about pressure on public service reform. Urbanization was accelerated along with economic development in China, requiring the government to take measures to meet the increasing demands on education, health care, social security, infrastructure construction, and other

⁴ Influenced by the ideology of the Communist Party, these principles were seen as the basic characteristics of a socialist country, such as planned economy and the state-owned enterprises. The market economy was seen as a feature of capitalism. Anyone who challenged these principles would be accused of undermining the foundation of the socialist country. The main message made by Deng during his visit to Southern China was that the essential difference between socialism and capitalism is not a planned economy or a market economy but the ability of promoting productivity. This is in the same vein of his pragmatism as expressed three decades earlier: it does not matter whether a cat is black or white – it is a good one as long as it catches mice.

public goods (Sun, 2004). On the other hand, the increasing demands that resulted from economic growth created some new challenges for the local government as direct provider of all kinds of public services. These challenges forced the government to change the pattern and player of public goods supply. The private sector demands for more rights to enter the public service field. Therefore, economic reforms are not only the foundation but also the driving force of public service reforms in China.

Thirdly, globalization is another important factor. Globalization has a profound impact on every corner of the Chinese society. As Yu (2008: 1) noted, economic globalization has also changed political structure and process profoundly, thus injecting new life into political process. China has been deeply connected with the world ever since it joined the WTO in 2001. The WTO regulations require the Chinese government to further reform the public sector, and define the boundary between the government and market clearly. Meanwhile, the economic reform also carries with it many new responsibilities to be dealt with by offering more public services, such as the unemployed workers from the state-owned enterprises and millions of migrant workers from rural areas. These require the urban government to cope with the new demands for schools, hospitals, public housing, and the related social institutions such as pensions, medical insurance and unemployment benefits.⁵ The role of the government has transformed from the sole player of public service provision to pay-master in this process. Furthermore, globalization has propagated certain political values, such as freedom, democracy, human rights, which are in turn expressed as increasing demands for new public services. In this point, globalization has generated external and internal driving forces for public service reforms in China.

We have briefly reconstructed the process of public service reform in China. The political context sets the background and is the key impetus of the reform. The economic basis determines the scope and standard of public service. The reforms started from a few sectors requiring immediate action. With rapid economic growth, the public service reform has expanded to cover more fields. Globalization plays a complex role in this

⁵ As part of the economic reform in state-owned enterprises, 6 million workers were laid-off from previous jobs in order to improve efficiency. Meanwhile, it is estimated there are 0.2 billion floating laborers who were farmers from the rural areas. Moreover, the income disparity and other issues brought about by rapid economic growth are challenging the governments' capacities for public service delivery. These pressures require the government to take more effective measures in public service reforms and in governance.

process. Public service reform in China is a case of a country in transition with path dependence. The specific political context and economic foundation determine the starting point of the reform. During the process of incremental reform, the political and economic changes push the reform to move ahead. Globalization adds uncertainty to the future of public service reforms in China.

4. Current Problems and the Future of Public Service Reform in China

4.1. Current Problems

Although the Chinese government has achieved steady progress in public service reform, it also faces daunting challenges, which can be summarized into the following five points.

Firstly, the public service capacity is still far from adequate. On the one hand, compared with the spending on public service in 1978, the expenditure level increased by 112 times in 2012 (from 1,122 billion Yuan in 1978 to 125,952.97 billion Yuan in 2012; China Statistic Yearbook, 2000, 2013). On the other hand, the level of public service in China is still lower than in most of the developed countries (the USA, the UK, France, Germany and Japan) and in some developing countries (India and Brazil) (Table 5).

Table 5: Comparing the Level of Public Service Internationally

Indicators in public service	The USA	The UK	France	Germany	Japan	India	Brazil	China
Public education expenditure in GDP (2010)	5.6	6.3	5.9	5.1	3.8	3.3	5.8	2.79
Health care expenditure in GDP (2011)	17.9	9.3	11.6	11.1	9.3	3.9	9.0	5.20
Social security expenditure in GDP (2010)	5.0 (2011)	13.2 (2011)	30.0	32.4	13.7 (1998)	3.9	11.7 (2007)	2.28

Source: World Bank, 2013

Secondly, the institutional constraints remain. The reforms have transferred some government functions to the market. However, the government is still the decision maker, public service provider, and supervisor in some fields, such as education, health care, and housing. In other words, the government still plays the simultaneous role of player and judge. The situation impedes the party-state's effort at building a service-oriented government. Too much attention has been paid to economic development. This point can be seen from the proportion of investment in the productive sector in the total public expenditure, which accounted for more than 40 per cent from 1949 to 1996. This is the manifestation of GDP-centered development strategy. Meanwhile, we noted that there is not a clearly defined responsibility for public service between the central and local governments. There is no law to specify the respective jurisdictions of the central and local governments. Some functions overlap. Certain functions are actually not within the complete remit of either side. For example, the public infrastructure, education, and health care are the responsibility of local governments but the central government fails to provide them with sufficient amount of corresponding revenue under the shared tax system, which has been implemented since 1994 (Yu, 2011). The GDP-orientated performance evaluation mechanism might be one reason to push the local government to focus on economic development to the neglect of public service provision (Xia, 2013; Yu, 2011). Therefore, it is urgent to reform the fundamental public service institutions.

Thirdly, the unequal development of public service is still a serious problem. The disparity of public service is shown in three aspects. One aspect is the unequal development between urban and rural areas. The urban-rural dichotomy has been a historical problem in most of the developing countries (Yu, 2011; Wang, Wong, 2009). In order to support industrialization and accumulation at the take-off stage in a country's economic development, the public expenditure was spent mainly on urban areas. Even in the 1980-90s, the supply of public service in rural areas of China was in a vacuum (Yu, 2011: 7). The urban-rural dichotomy resulted in serious problems in each public service sector (Wang, Wong, 2009). For example, in 2003 urban medical service spending per capita was five times that of rural farmers (Liu, 2009). The farmers, who accounted for 63 per cent of the population, could only enjoy 20 per cent of medical service resources in 2003 (Liu, 2009). Yet another aspect is the unequal development of different regions. For example, in western China in 2003, farmers covered by old age pension accounted for 20 per cent in the whole nation. In 2003, only 5 per cent of the farmers in western China could en-

joy the public medical service, while the figure was 50 per cent in eastern China (Liu, 2009). A third aspect is the unequal development of public service among different groups. The migrant population (mainly farmers), estimated at about 200 million, cannot enjoy equal public service, including social security, as can urban citizens. The unemployed workers from state-owned enterprises could not enjoy same social security level as the employed workers. Farmers could not get equal public service as urban residents in quantity and quality (Table 6).

Table 6: The Number of People Receiving Social Assistance (2002–2006)

Unit: 10,000 people

Year	2002	2003	2004	2005	2006
Urban citizens who received the minimum living security	2,064.7	2,246.8	2,205.0	2,234.2	2,240.1
Farmers who received the minimum living security	407.8	367.1	488.0	825.0	1,593.1
Farmers who received the traditional social assistance	497.8	1,160.5	1,402.1	1,891.8	2,987.8

Source: China Statistic Yearbook, 2007

Fourthly, the financial resources for public services are not sufficient. Currently, the government expenditure on public services is too low to meet the people's needs. For example, the public spending on education accounted for 2.28 per cent of GDP in 2011, which was far below the world average of 7 per cent of GDP. The figure for some developed countries is even higher – 9 per cent of GDP (Table 5). In addition, the central government's financial transfer payments to local governments are problematic. They are usually diverted by local governments, especially those in the western region, to make up for the shortfall in the salaries and wages of civil servants, and little is left for the actual provision of public service to the local residents. Furthermore, the public budget is not managed properly (Yu, 2008; Yu, 2011).

Fifthly, the overall provision of public service is poor. The main task of public service reform is to change the traditional government into service-oriented government. However, the public service motivation of civil servants still has a long way to go before meeting the requirements of a service-orientated government (Liu, 2009; Jiang, Deng, 2009). Influenced by the traditional culture of officialdom, some civil servants pay

more attention to maintaining their position and maximizing their power than considering how to perform their duty as real servants of the people. Some lack creativity in service provision. Some are not competent in public management and public service, thus affecting the quality of services provided to citizens. In some occasions, red tape, and corruption prevail in the local government. From the performance management perspective, local governments still do not have an effective performance evaluation mechanism. These factors are the key reasons for the poor performance of public service in practice.

4.2. The Future of Public Service Reforms in China

It is always venturesome to predict the future. Our predictions are based on precondition that the economic growth will be maintained, the whole society will remain stable, etc. More specifically, however, the future is to a large extent determined by the current policy and its implementation as well as the prevailing trend in public service reform and current problems. Based on our analyses, the future of public service reforms in China is likely to hinge on the following three points.

First, it is likely that the government will regain its role of the main provider of public service. From the 1980s to 2000s, the market-oriented reform too readily relieved the government of its responsibilities for providing basic public services by shifting costs to citizens. The situation was so serious that many ordinary people found it difficult to pay for their children's education; it was too expensive to see a doctor, purchase an apartment, or pay the rent. The cost of education, seeing a doctor and paying for housing became the "new three maxims"⁶ weighing down on the ordinary people. The new Xi-Li leadership that came to power in 2012–13 has promised to take meeting citizens' basic public service needs as a priority of the government policy. In order to realize this objective, the government is resetting the boundaries between its role and the extent the market mechanism can be resorted to, as well as and between the central and local governments. The national legislature is considering enacting specific laws on public service, defining the respective responsibilities of the central government and local governments. The public services to be provided by local governments will be guaranteed

⁶ The old three maxims were imperialism, feudalism, and comprador-capitalism, which the communist revolution overthrew in 1949 as the Communist Party claims.

the necessary financial resources. In the process of public service provision, performance management of each government level will be implemented more effectively.

Second, the equalization of public service as a government goal will be implemented gradually. The disparities in terms of access to public services between rural and urban residents, between the residents of different regions and between different social groups are currently factors affecting the social stability and people's satisfaction with life and with the government. The new leadership has taken measures to ensure the equal opportunity for all citizens. The central government has begun to provide financial support to rural residents for their compulsory education, cooperative medical insurance, and pension programmes. In urban areas, various subsidy programmes have been intended for low-income citizens. The basic urban public services are gradually open to the migrant workers and their families from the countryside. The central government has promised to increase its transfer payments to the local government in western China to reduce the gap between it and the eastern coastal region in terms of the quantity and quality of public services provided to the residents.

Third, the stakeholders other than the government will increase their role and a multi-participation mechanism in public service provision will be established. The reforms have opened the door to multi stakeholders participating in the supply of public goods. However, the government remains the main stakeholder. Other actors, such as private companies and social organizations have recently been allowed to participate in the provision of public services. More fields will be opened to them, such as hospitals, schools, and homes for the elderly. The Shanghai Municipal Government was the first in experimenting with purchase of the services provided by social organizations. In this way, the government does not need to set up institutions and employ staff. Under the central government's policy of strict control of the establishment quota of agencies and civil servants, this is an effective way out. The existing government-run institutions have improved services after facing competition. The government is exploring other forms of public service provision, such as contracting out, franchised operation and so on. Citizens and other stakeholders will get involved in the process of public service provision. These measures will help improve the transparency and fairness of public service supply.

4. Conclusion

This paper has reviewed the history of public service reform in China. As part of the wave in global New Public Management reforms, the Chinese story confirms the theory of historical institutionalism. The specific political and economic background has influenced public service reforms to a large extent, which is also the main challenge they face in their future development. Without good industrialization and urbanization policies and a comprehensive political reform programme, the public service reform was doomed to be a difficult project. This may be a common feature of countries in transition. The deeper the reforms are carried out, the tougher the political and institutional obstacles.

The Chinese experience has shown a path to reform the public service from a highly controlled mechanism in a planned economy to a market economy. The service-oriented government will treat all citizens equally and that is why the participation of multiple stakeholders in public service supply is a desirable policy choice. Some mechanisms such as contracting out and franchise will be a common feature of public service provision in both China and the OECD countries.

However, the public service reform in China still shows some characteristics different from the developed countries. The most prominent is that the Communist Party's role is decisive; public service is determined by the party's service motivation.

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PUBLIC SERVICE REFORM IN CHINA

Summary

The article reviews the history of public service reform in China. It shows the special path of public service reform in a country transformed from a planned socialist mechanism to a market economy. The public service reform in China is distinctive by its incremental nature. The article is based on the theory of historical institutionalism. The analysis of path dependence of the reform is made from the perspectives of political context, economic foundation, and globalization. The qualitative research method is employed. The article concludes with a summary of current problems and prediction for the future of public service reform in China.

Keywords: public service reform, China, historical institutionalism, path dependence, transition

REFORMA JAVNIH SLUŽBI U KINI

Sažetak

U radu se analizira povijest reformi javnih službi u Kini. Ona pokazuje posebnu razvojnu liniju reforme javnih službi u zemlji koja se transformira od planskog socijalističkog mehanizma prema tržišnoj ekonomiji. Različitost reforme javnih službi u Kini temelji se na njezinoj specifičnoj postupnoj prirodi. Rad je teorijski utemeljen na povijesnom institucionalizmu. Analiza ovisnosti o prijašnjem reformskom putu uzima u obzir politički kontekst, ekonomske temelje i globalizaciju. Koristi se kvalitativna istraživačka metoda. Rad završava sažetom elaboracijom sadašnjih problema i predviđanjem budućeg tijeka reforme javnih službi u Kini.

Ključne riječi: reforma javnih službi, Kina, povijesni institucionalizam, prijašnji put, tranzicija

Institutional Change of Quasi-Market Arrangements in Local Public Transportation – Comparative Observations from Germany and Finland

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The paper analyses the effects of implementation of quasi-market reforms on local public transportation systems in Finland and Germany. Along with several other sectors of public service, local public transportation (LPT) has been subject to market-oriented reforms. In line with worldwide New Public Management reforms, quasi-market arrangements are presumed to produce more value for money for users and citizens. The aim of this paper is to analytically compare the organisational settings of LPT provision and

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delineate the factors that contribute to institutional convergence and divergence when applying quasi-market models. An extensive dataset of six case cities from Finland and Germany is used in order to analyse some of the most important trends and trajectories for different governmental levels (e.g., EU regulation), reflecting upon the empirical findings from the two countries. Utilizing an institutional theory approach, the relevant quasi-market arrangements in LPT are covered: public monopoly, private monopoly, and competitive tendering. The study discusses different factors that contribute to or hinder market-oriented structures in LPT and explores institutional theory-driven explanations as to why, for instance, Finland embraces market structures, whereas Germany shows more resistance to increased competition. Certain issues that seem quite similar irrespective of the two countries' contexts are discussed as well.

Key words: local public services, public transportation, markets, quasi-markets, Finland, Germany

1. Introduction

Local governments worldwide have increasingly relied on new organisational models to provide their citizens with services. Public sector reforms have played a central role in administrative development (Pollit, 1993; Hood, 1995). Competitive structures were introduced in former public monopolies (Pollit, Bouckaert, 2000; Boyne, 1998), coinciding with the New Public Management, an attempt to make public services more efficient through, for instance, managed markets (Hood, 2000). This concept has been applied to almost all services that are or have been organised by public administration, such as health care, education, and transportation (Bartlett et al., 1994, 1998; Walsh, 1995).

These reforms have influenced the structure of the public sector as a whole. Formerly, services were integrated into the structure of public administration (Rees, 1976), whereas currently, provision units are separate and work independently. Between the provider and the public authority (purchaser), there is usually a contract defining the demand for and quality of a service and the compensation for its provision (Walsh et al., 1997).

Another change is the introduction of profit-seeking private companies into fields that provide public services (Parker, Saal, 2003). A substantial development is the introduction of competitive structures that replace traditionally monopolistic ones. These new provision types resemble market structures to some extent and are therefore summarized under the term “quasi-market” (LeGrand, Bartlett, 1993). Quasi-markets combine the public authorities’ ability to compensate for market failure with mechanisms that protect against government failure (LeGrand, 1991).

The EU adopted many quasi-market reforms, applying them to the public transportation sector, and as member states of the EU, Finland and Germany are obliged to follow its directives. Still, when comparing organisational forms in Finland and Germany, it becomes obvious that the two countries have not converged in the LPT sector: Finland is increasingly relying on the competitive tendering approach and Germany is maintaining a *de facto* public monopoly. In the context of LPT in Finland and Germany, the two main pressures are the need to adhere to EU legislation and the philosophy that quasi-market structures will improve the efficiency of public service provision. In this paper, we investigate how these two pressures have influenced the shaping of LPT institutional arrangements in Finland and Germany. More specifically, the aim of the paper is to compare the organisational settings of LPT provision analytically and to delineate the factors that contribute to institutional convergence and divergence when applying quasi-market models.

The paper uses an extensive dataset of six case cities from Finland and Germany. The dataset includes documentary and interview data regarding quasi-market arrangements for LPT provision in the case cities. The case data was collected between 2008 and 2012, and included 25 semi-structured interviews. Following the data analysis, we discuss the most important trends and trajectories for different governmental levels (e.g. EU regulation), reflecting upon our empirical observations. For the theoretical background, the institutional theory approach (e.g. Nelson, 2005) promises explanatory power to understand the institutional change. From this perspective, we cover the relevant settings for quasi-market arrangements in LPT: public monopoly, private monopoly, and competitive tendering. Methodologically, the paper is an exploratory study with an emphasis on the iterative use of theoretical concepts and empirical data. We aim to enrich the understanding of quasi-market models in LPT through theoretical scrutiny and reflective interpretations of empirical observations.

2. The Conceptual Framework and Research Design

Regarding methodology, first we identify relevant organisational variations in LPT, and investigate examples from both countries Germany and Finland. We have picked cases that represent each category and analyse the status quo as well as the case history with the help of publications and semi-structured stakeholder interviews. Interviews have been the source of complementary data that is not available from any other source. We then identify the factors that led to institutional change and compare them by using the national context. Finally, we group the factors according to the theoretical considerations.

Quasi-Markets in the Context of LPT. The quasi-market concept (cf. LeGrand, 1993) in New Institutional Economics primarily focuses on ownership and market organisation (Nelson, 2005). Ownership theoretically defines private entrepreneurs as profit maximisers, whereas public enterprises are not (Rees, 1976). Market organisation refers to a situation of either monopoly or competition; each approach leads to both positive and negative consequences and efficiency gains and losses.

A quasi-market is any arrangement or organisational form on the spectrum from an unregulated market to integrated hierarchical services organized by (in-house) public administration (cf. Williamson, 1999). A quasi-market has some qualities of a free market, but differs in many respects. In general, the quasi-market exists whenever the city administration buys services from outside the administration (cf. LeGrand, Bartlett, 1993; Walsh, 1995). Most notably, its purpose is to separate functions within organisational settings. In public administration, one such solution is the purchaser-provider split in which the public provider is an independent unit with its own management. This unit is legally bound to provide services according to a contract between the provider and the purchaser (instead of the user). In that sense, the city administration continues to define the demand for a service and leaves the position of the customer unchanged. LPT contracts are usually made for five to ten years for bus services and are subject to revision after that timespan (EU Commission, 2008).

There are four distinct quasi-market prototypes for LPT service provision based on the distinguishing criteria of ownership and market organisation. In institutional practice, mixed forms of organising, or hybrid forms, may occur within one city (cf. Swarts, Warner, 2014). Each approach dif-

fers based on the degree of market functions, from a protected monopoly to organisations resembling a free market. Table 1 illustrates the possible arrangements.

Table 1: Quasi-Market Arrangements in LPT

		Ownership	
		Public	Private
Market organisation	Monopoly	Public monopoly	Private monopoly
	Competition	Competitive tendering	

Source: cf. Seidel, 2009

Note that both public and private ownership forms exist in a competitive market, reducing the variety of forms to three: public monopoly, private monopoly, and competitive tendering. For this paper, we have created two dimensions of analysis: the ownership and the market organisation. Therefore, hybrid forms of LPT are discussed only indirectly (Swartz, Warner, 2014). For the sake of clarity of our methodological setting, the features of hybridity in LPT are addressed as combinations of public monopoly, private monopoly, and competitive tendering. We are interested in the mechanisms of institutional convergence and divergence in LPT in the shape of competitive tendering. However, as noted, hybrid forms in LPT represent themselves “in between” the conceptual categories we utilize (cf. Ebrahim et al., 2014; Hodge, Greve, 2005).

To study LPT from the institutional perspective, we need to search for factors that change the institutional setting. It seems feasible to examine cases that began in a different category than they are in now and cases that have resisted change (see below for a more detailed explanation of the theory). The traditional organisational model of LPT in Finland and Germany is different from the competitive tendering model preferred by the EU. Although there has been a general tendency to use market-like elements in LPT throughout Europe over the last two decades, German LPT systems in the past were almost exclusively public monopolies (Beck, 2012), whereas in Finland private monopolies operated nearly all mid-sized city services (Rosenberg, 2005). Selecting these countries for analysis enables us to understand to what extent the application of competitive

structures depends on “where you come from”, in terms of institutional theory (Scott, 1991).

For a detailed investigation, we select cases from both countries that fit in each category (three cases in each country, six overall). We trace their development, asking how and why they transformed into their current institutional forms. To ensure that all varieties are covered and to provide an overview, we describe one example of each organisational form at the time of observation.

The case cities were selected based on the following criteria:

- the level to which the city represents both the form it belongs to and how it compares to other cities using the same form;
- the maturity of the organisational form (there is already institutional history; at least a few years of experience);
- the city size should be similar for both countries;
- the willingness of key actors to participate in the study.

According to these criteria, Frankfurt was selected as a competitive tendering system, Pforzheim (PFO) as a private monopoly and Wuppertal as an example of public monopoly for Germany. For Finland, Helsinki (HEL) represents competitive tendering, Jyväskylä (JYV) the private monopoly and Tampere the public monopoly. Frankfurt (FRA, population 687,775)¹ and Helsinki (612,664) are the same size, also in terms of their metropolitan areas with having over one million inhabitants each and are the most prominent representatives of the frontrunners of competitive tendering. Pforzheim (116,425) and Jyväskylä (134,658) are similar, in that Pforzheim is the largest of the very few cities in Germany that awarded the service to a private monopolist, and Jyväskylä is typical of any mid-sized town in Finland regarding private monopolies in LPT up until 2014. Wuppertal (342,885) is slightly larger than Tampere (220,446). Tampere is the last Finnish city to protect their public operator from competition and Wuppertal is typical of the vast majority of German cities that prefer to organise services through their own company. The fact that Wuppertal also owns a special monorail plays a negligible role. See Table 2 for a description of how the city cases fit into the quasi-market scheme.

¹ Figures for Finland (31. 12. 2013): http://www.stat.fi/tup/suuluk/suuluk_vaesto_en.html and for Germany: (31. 12. 2012) <http://de.statista.com/statistik/daten/studie/1353/umfrage/einwohnerzahlen-der-grossstaedte-deutschlands/>

Table 2: Fitting the Case Cities into the Scheme of Analysis

		Ownership	
		Public	Private
Market organisation	Monopoly	Wuppertal, Tampere	Pforzheim, Jyväskylä
	Competition	Frankfurt, Helsinki	

Institutional Convergence and Divergence in LPT Systems – Theoretical Remarks. Institutional systems rarely end up with completely similar outcomes, even if they are subject to common external pressures, or they apply similar mechanisms or managerial artefacts (Powell, DiMaggio, 1983; Vakkuri, 2010). Therefore, it can be assumed that given the distinct local conditions, quasi-market arrangements would have diverse implications for organising LPT systems in the case cities in Germany and Finland. Theoretically, the balance between convergence and divergence is not an easy puzzle. Institutional theory has explained the mechanisms of convergence, for instance, by using the argument of isomorphism (Powell, DiMaggio, 1991). In both countries, LPT systems have encountered coercive, mimetic and normative pressures to adopt and implement quasi-market models due to the EU’s common regulatory framework (normative) and due to official assumptions about the efficiency of quasi-market systems (coercive). It may also have been important for local governments to decrease uncertainty in organising LPT by adopting models from perceived best practices (mimetic): LPT systems become more similar because institutional actors imitate each other’s institutional practices (Kuhlmann, Wollmann, 2014).

Imitating best practices and applying common regulations might result in similar practices among public administration systems, to a certain degree, which implies that dissimilarity remains. The important point is then to distinguish the similar parts from dissimilar ones, and to discuss how we can better understand the balance between institutional convergence and divergence in LPT. There are two important areas of theoretical discussion. First, applying quasi-markets in LPT systems may increase convergence, but primarily at the symbolic level. Without significant contributions to efficiency, case cities may develop and “re-engineer” their LPT systems to resemble the activities of model organisations in a ritualistic fashion rather than to achieve true convergence. LPT systems might appear to be similar, but given the local

needs and conditions, they actually remain different in many respects (March, Olsen, 1988). Second, using quasi-market models is far from an unambiguous process because a quasi-market model is not fixed, like any politico-administrative artefact; local governments use quasi-market models for their contextual and situated practices (Orlikowski, 2000). Quasi-market models may help to understand the problems of organising LPT by (March, Olsen, 1988):

- a) Describing the context of LPT (What is going on? What is the most important problem to solve?);
- b) Searching for solutions that contribute to good performance in LPT (What should be done to improve LPT?);

Predicting future outcomes (How should the outcomes of applying quasi-market models be evaluated?).

In this process, quasi-market models are not pure “textbook models”, as they do not remain the same. On the contrary, they are constantly reinterpreted, revised, and transformed by institutional actors and the process of use, which enriches the comparison of LPT systems in the two countries in terms of understanding relevant actors’ policy interpretations. By exploring those interpretations, we may more fully understand the effects of using quasi-market models on LPT (Aidemark, 2001; Vakkuri, 2010, 2013). Although the case cities can and do (to varying extents) use quasi-market models as they were initially designed, they also circumvent prescribed ways of using the models. They tend to ignore certain properties that do not fit well into local political and financial conditions. Furthermore, actors tend to work around some properties and invent completely new ones. As Lindblom and Cohen (1979) succinctly argued, by doing this, institutions may solve some existing problems but simultaneously initiate new ones. This applies to the uses of quasi-market models in LPT systems.

The Regulatory Framework for LPT in the European Context. In LPT, the quasi-market is legally regulated at three levels: EU legislation, national laws regarding subsidies, and regional (and/or local) regulations. In this section, the relevant EU legislation is presented and the national and regional influences are discussed at the country level.

The regulatory background of LPT in the EU was due for a change in 2009. The changes affected national legislation, which required additional time to change; transitional regulations still apply until 2019. Many of the changes are connected to the choices that city administration can make.

With adoption of the new EEC 1370/2007, the regulations became more specific and detailed compared to the old EEC 1893/91.

Subsidy rules are an important means for the EU regulation to influence LPT. Since almost none of the local public bus service can sustain itself exclusively by income from fares, the regulations regarding public service subsidies apply, and they need to be fair and visible. Consequently, contracts are drawn up and there are specific LPT rules which have undergone changes after an extensive debate: EEC 1893/91 mandates authorities to use competitive tendering for unprofitable services (compulsory competitive tendering as in the UK), unless national laws specify otherwise. Local authorities in some countries, including Germany, argued against including certain kinds of subsidies into the calculation of profitability, such as special fares for students and elderly. Moreover, the authorities believed that the EU's restrictions would impede the subsidy principle by limiting local choices in an illegitimate way.

After a court decision on subsidies, the decree was redrawn, and in 2009 the new decree EEC 1370/2007 became the legal reference. This decree allows the following procedures: First, the city administration can give competence to perform the LPT service to a public operator, although this option is supposedly exceptional. Second, it is possible to give competence to perform service to a private operator directly if the amount is limited (below 2 million euros or 600,000 passenger-kilometres² maximum for small enterprises). The majority of services are expected to undergo a competitive tendering procedure, which is the third option.

National laws regulate the flow of subsidies; in Germany, the law on regionalisation plays an important role. Although not originally meant for paying direct LPT subsidies, the money directed for regional cooperation in transportation can also be used for LPT operations. One reason may be that these subsidies replaced direct financial support for providing public transportation according to the law for financing LPT at the local level (*Gemeindeverkehrsfinanzierungsgesetz*, GVFG). In Finland, the law on public transportation called *Joukkoliikennelaki* (869/2009) applies the EU regulation to the national level. It was developed from the decree 343/1991, which introduced competitive tendering to Finnish municipalities.

² pkm = passenger-kilometres - the distance that all users of public transportation travel in a year.

3. Quasi-Market Arrangements in LPT – Empirical Observations from Germany

In Germany, public operators have traditionally provided LPT, and larger cities own a company that runs LPT under a service obligation. Smaller cities either seek to collaborate with larger neighbouring cities, or large state-owned companies provide the service, such as Deutsche Bahn. With the update of the EU legislation in 1991, nothing changed in the system of public monopolies, despite an ongoing legal debate on whether the municipalities were allowed such practices under the EU law. Eventually, some significant changes occurred as a consequence of financial steering mechanisms. Some of the state subsidies for LPT were paid under the condition that cities in the same region would collaborate in organising public transportation (both rail and bus) for their area. Soon, those task-related collaborative entities, called Zweckverbände, formed among municipalities across Germany to plan, organise and finance LPT jointly. The operating area is called Verkehrsverbund and can extend 100 kilometres in diameter and reach across administrative Länder boundaries (for example VRN and VBB). The goal of this reform was to produce coordinated services for LPT users and improve usability, for instance, through creating connections across municipal borders and simplifying ticket acceptance.

Pressure by lobbyists and some scholars (Ewers, Ilgmann, 1999) to abolish the public monopolies and replace them with competitive structures increased in the late 1990s and early 2000s. In anticipation of a new EU legislation demanding competitive tendering as the sole LPT model, the State of Hessen passed a law in 2005 (ÖPNVG) that compelled all municipalities (except members of the VRN Verkehrsverbund) to offer their services for competition. Consequently, the city of Frankfurt, as a part of Hessen, introduced competitive tendering for bus services despite the incumbent public operator's resistance. The city network was divided and tendered in five parts over the next few years (Rehn, Valussi, 2006). As of 2014, all parts have been tendered at least once. The public operator survived as one of three big players in the city, the other two being the private global players Veolia and Arriva. The price the city paid for LPT services has been significantly reduced, which is why it is regarded as a success by the city administration. On the downside, the market dynamics are quite limited, with few competitors, so the city is concerned with keeping all of the operators in the market, otherwise the competition may wane.

The city expressed the significance of maintaining the public operator as a backup player and keeping the market competitive. Seidel (2015) theorizes that two market entry barriers are access to infrastructure and the workforce. Collaboration between bus operators, encouraged and partly enforced by the city administration, has helped overcome access difficulties (*ibid.*).

Introduction of competitive tendering into Frankfurt happened against the will of the incumbent operator and its employees. The management of the public monopolist saw transaction costs exceeding possible benefits and felt protective toward employees. The employees feared losing their jobs, worsening working conditions and loss of benefits, all of which happened, except for layoffs. Both groups would reverse the reforms if possible (Seidel, Vakkuri, 2013b).

As of 2014, the Frankfurt example is still an exception to the rule of public monopolies in Germany (Beck, 2012). Except for the state of Hessen, competitive tendering occurs in the areas which have one dominant city in the region. This observation suggests that the collaborative entities, whose players are equal, tend to prefer a status quo. This makes sense, as many actors need to agree on a significant change such as the shift from direct contracts to competitive tendering. Because the coordination within the task unit requires substantial work, the actors hesitate to put such a controversial subject on the agenda unless outside pressure is exceptionally strong. In the areas where one large city dominates smaller ones, initiating a change appears easier. Another reason for the tendency of smaller towns to refrain from tendering may be the fear that lack of applications will lead to no competition, putting the present monopolist in an even stronger position. In addition, the entire cost of preparing for a new system would be wasted, and fear of the unknown, or risk avoidance, seems to have a role in maintaining the present system.

Many German cities have decided to continue to give services to their own operators for various reasons. The arguments in favour of continuing public delivery are partly congruent with the arguments against competitive tendering. In Wuppertal, for example, there is a presiding fear of transaction costs for changing the organisational model. The city has refrained from introducing competitive tendering structures because officials doubt that there would be any economic gains. Instead, the operator believes that most of the cost reductions and efficiency improvements have already been achieved. The fear of losing expertise in organising LPT emerges when another vendor provides the service. For now, Wuppertal's

city administration is trying to maintain the organisational form, but the administration has been active in implementing some market-like structures. After releasing the bus operator from the public administration structure, the management received more independence in decision-making. Under pressure to reduce costs, the public operator has subcontracted lines, bought private operators and transferred employees to a separate service company. While the workers opposed these changes because they could lead to deterioration of income and working conditions, the management welcomed the reforms (Seidel, 2015).

The private monopoly is a rather rare organisational form in Germany. According to the EU legislation, only small services can be given directly to a private operator without competition. Hence, this model works only for small cities or as a supplementary form of service provision in larger ones. There is an exception in case the entire network is sold to a private company in a competition. For example, Pforzheim was among the first German cities to sell the majority of their public company to a private operator, Veolia. However, this case is not a clear-cut monopoly because the city kept a minority share and the sale included a call option. Fear of the unknown, commercial exploitation and concerns regarding workers' rights led to public protests, ending in a non-binding vote. The city decided to make the deal against the will of the majority of voters because it was in a desperate financial situation following the global economic crisis, which struck Pforzheim in particular. The liberal mayor saw an opportunity to ease the city's fiscal problems by selling assets and having private companies provide potentially cheaper public services. To address voters' concerns, the city decided to keep a minority share and include a call option in the contract. Concerns about the loss of workers' rights were addressed in the contract as well, with the city compensating individual income losses. The actors managed to find a solution for keeping expertise in the city and transferring knowledge to the operator by appointing the former head of the transportation unit as the new manager of the joint venture (Schütze et al., 2009; Seidel, 2015).

Veolia's calculations turned out to be too optimistic and the operator recorded losses for most years. To save costs, the management tried to make agreements with the labour unions that would negate the securities guaranteed in the working contracts, which the union partly accepted. The situation developed in such a dissatisfactory way that in 2014 the city decided to use the call option to end the contract and buy back the shares from Veolia. A serious dispute about the value of the shares has been ignited, as the city insists on the contract despite Veolia's preference to

price in the losses from the previous year, claiming that the losses are entirely to the disadvantage of the private partner. This latest development has dissuaded other cities from copying the Pforzheim model; especially since the city itself believes that the transaction costs more than keeping the previous structures (Seidel, 2015).

4. Quasi-Market Arrangements in LPT – Empirical Observations from Finland

Finland's LPT services are organized in a much more different manner than in Germany. Traditionally, most cities were served by private operators who enjoyed a *de facto* monopoly of repeatedly renewed concessions (Rosenberg, Räsänen, 2005). Finnish municipalities had little choice – they could either accept the private offer or provide the services themselves. Only the five largest cities in the country (in the capital region of Helsinki, Tampere and Turku) used city-owned companies to organise LPT. In the Helsinki region especially, numerous concession holders caused a chaotic situation of uncoordinated public and private services. To improve coordination in the capital region and break up the private monopolies with their excessive pricing, Helsinki, Espoo and Vantaa were allowed to change jointly their organisation type to a competitive tendering regime. First, the services outside Helsinki and across the municipal borders were tendered in 1994, and later transportation within Helsinki was included in the system. The coordination of public transport improved significantly. The competition is still active and the prices the authorities pay are much lower than before (Valkama, Flinkkilä, 2003; Sinisalo, 2007). The public operator from Helsinki is one of the seven players in the network today and is regarded as valuable for benchmarking. Unlike Frankfurt, the public operator is not needed as a safeguard, but the operator helps to keep prices low through winning tenders (Seidel, Vakkuri, 2013b). Problems in Helsinki have occurred because of unhealthy competition, leading to an unprofitable market (Valkama, Flinkkilä, 2003). Deteriorating working conditions and low salaries have made the job market so unattractive that the companies have had difficulty recruiting workers (Haatainen, Harisalo, 2003). Despite these problems, the case is considered a success by the city administration and as a consequence, other cities have started following Helsinki's example (Sinisalo, 2007).

First Turku and then Tampere introduced competitive tendering. While Turku is strict with their tenders, Tampere plans to keep 50 per cent of

tenders under public control through direct service contracts. The manager of the public operator was successful in preventing competition for a long time, negotiating annual cost reductions with the city for a safe monopoly in return (Seidel, 2015). In 2006, though, there was a purchaser-provider split, which was applied to the city's entire public sector, leading to greater cost transparency and laying the ground for additional organisational shifts (Kallio et al., 2006). Although the management is more independent on paper, the public operator still needs to fulfil obligations and tasks that the administration sets. The need to utilize employees from other parts of city administration and the compulsory use of city services means that the company is still not as autonomous as a private operator (Seidel, Vakkuri, 2013a).

Despite the manager's attempts to maintain the monopoly, in 2009 Tampere introduced its first tendering process as a test when tendering advocates gained control of the city administration. The city was satisfied with the results and decided to tender half of the city network gradually, sometimes excluding their own operator from competing. This system shift still occurred in 2014, and several private operators joined to manage LPT in Tampere. Currently, the city wants to keep the public operator as a back-up and a benchmark for the future, especially since the operator has been successful in reducing costs. While the administration has been happy with the results so far, there is criticism of the changes from employees who have lost privileges and the public operator who sees advantages in the previous system (Seidel, 2015).

Representing the majority of Finnish cities with a heritage of private monopolies, Jyväskylä's LPT was operated by a private company (Jyväskylän Liikenne) for many decades. Despite paying high prices for the private service, the city administration did not consider establishing its own company as a viable option because of anticipated high transaction costs. The city lacked the infrastructure, personnel and expertise, and the administration did not want to jeopardize a successful, long-term relationship with the operator, despite paying excessive prices. Eventually, given the option of competitive tendering, the city finally decided to start competitive tendering in 2014 – a decision that coincided with a personnel change (ibid.).

Expecting cost reductions, as in Helsinki, the administration also spent time acquiring expertise in tendering processes and public transportation knowledge. In the tendering, naturally there were only private operators. The competition was won by a newcomer. However, the problem arose

with recruiting drivers and acquiring vehicles and infrastructure. The incumbent immediately signalled the intent to keep those assets, which led to a dilemma for the new operator. The two operators engaged in a sub-contract deal in which the incumbent operates all services the company used to operate. One may wonder how much real competition there is when the incumbent has such a strong position, preventing new entries by exploiting market entry barriers. Other mid-sized cities with former private monopolies such as Kuopio, Joensuu and Oulu have only recently begun competitive tendering (*ibid.*).

5. Conclusion

The aim of this paper has been to compare the organisational settings of LPT provision and to examine the factors contributing to institutional convergence and divergence when applying quasi-market elements. It deals with the use of market-oriented reforms in local government through an analysis of six case cities in Germany and Finland.

Our study assesses the complex mechanisms and levels of institutional change in LPT provision. The question of convergence and divergence is dependent upon how we define the ultimate directions of institutional action. LPT systems in Germany and Finland are subject to common forces of normative isomorphism; EU-level regulation could theoretically lead to uniformity by introducing competitive tendering as an institutional norm. Observationally, though, the EU legislation has had only a minor impact while other institutional factors have played a more important role in shaping the institutional set-up of LPT. From the observation of German and Finnish cities using quasi-market elements in LPT, we find significant variance in the reforms' impetus and their extent. We conclude that converging and diverging factors simultaneously shape LPT institutions.

Finnish cities are more in favour of competitive tendering than German cities. The main reason for this lies in trajectories. Due to tradition, private monopolies in Finland have been regarded very critically and city officials were sure to save money through tendering. The example from Helsinki has been acclaimed as a success story, inspiring other cities to follow the same path, first Turku, then Tampere and others. Germany has lacked this success story, although Frankfurt possibly starts to take this position now. As frontrunners of LPT reforms in their respective coun-

tries, Helsinki and Frankfurt fuel expectations that costs can be saved through competitive structures. Especially in fiscal emergencies, selling to the highest bidder seems to be a solution, as in Pforzheim. Nevertheless, public monopolies are generally regarded as less problematic by cities. German officials emphasized administrative public sector reforms (see Wuppertal) in order to improve efficiency and avoid transaction costs. In cities with lighter financial pressure, the public operator is threatened with competition (Tampere and Wuppertal). For public managers, this threat may provide a window of opportunity to push through institutional reforms they already consider necessary. Public companies adopt the management thinking and behaviour of business organisations by outsourcing and establishing companies, although the city, as the owner, may impose restrictions on these companies. The companies are compelled to employ certain groups of workers and use overpriced services and infrastructure that contrast with their own business logic (Tampere, Pforzheim and Wuppertal).

For Germany, there are different influences of regional nature. Since the states have legislative power, they have imposed competitive tendering in the State of Hessen including Frankfurt. Further, the regional collaboration between cities (Verkehrsverbund) plays a role and coordination tasks raise the barrier to initiate a change by one city only. Trade union power rhetoric stands against the willingness to give up privileges due to changes in organisation forms, since much of efficiency gains have been achieved in connection to workers. All changes have been accompanied by heavy resistance in both countries, but this concerns both public and private organisations. One of the side-effects is that excluding the opportunity of cutting personnel costs makes the involvement of new private companies, and thus competition, much less attractive.

A number of factors are arrayed against LPT market reforms. Avoidance of uncertainty and lack of expertise seem to prevent cities from adopting changes. Economic factors such as transaction costs and market entry barriers may prevent successful competition. Once started in the LPT sector, there is no guarantee that markets will function, and exploiting the monopoly position may stall change (cf. the development in Jyväskylä). Personal influence, as seen in Tampere and Jyväskylä, may delay the introduction of a competitive structure for a long period, but reforms will be implemented once personal ties have diminished. Incumbent operators usually claim that they are more capable of providing the service than other providers, which may hinder market-oriented reforms. Other forces that oppose market structures are the employees who rightfully fear

being worse off than before the reforms. Yet, they have little influence on preventing structural changes. Public opinion, in contrast, has proven successful in balancing at least some reforms in Pforzheim.

Table 3 displays factors from the case cities that influence the institutional setup of LPT. The convergence factors are grouped according to the three causes of isomorphism, as described in Chapter 2: Normative, coercive and mimetic factors sometimes find counterparts in divergence, although some diverging factors cannot be neatly placed in these categories. The abbreviations in parentheses indicate to which city the factor applies or applied as a driving force.

Table 3: Empirical Factors Contributing to Convergence in the Use of Quasi-Market Structures in LPT Systems

Normative

- EU regulation on competitive tendering as a standard in LPT (all cases)
- Regional regulation (FRA)

Coercive

- Belief in efficiency of competition (FRA, HEL, JYV, TMP) or other market elements (PFO, WUP) such as outsourcing, joint ventures and collaboration
- Suspicion of monopoly exploitation (JYV, HEL, TMP, PFO)
- Fiscal emergency (HEL, PFO)

Mimetic

- Following good practices (JYV, TMP)

Table 4: Factors Contributing to Divergence in the Use of Quasi-Market Structures in LPT Systems

- Belief in superiority of a public agency (all public operators, especially in WUP, TMP)
- Other market failure elements, such as entry barriers (JYV, FRA), transaction costs (WUP, FRA), information asymmetry (PFO, JYV)
- Lack of expertise (JYV) or the fear of losing it (PFO, WUP)
- Use of market power preventing functioning markets (JYV)
- Uncertainty caused by lack of knowledge and suitable examples (WUP, JYV)

- Personal relationships of key actors (TMP, JYV)
- Large collaborative entities (WUP)
- Special obligations for public companies (TMP, WUP, PFO)
- Resistance to changing employees' working conditions (PFO, HEL, TMP, FRA, WUP)

Tables 3 and 4 present conclusions of the institutional analysis of the decisive factors that shape quasi-market structures in LPT systems. Some of the diverging factors are being handled successfully. Market entry barriers have been reduced through forced collaboration and active competition policy in Frankfurt and Helsinki. Hybrid forms such as joint ventures have prevented monopoly exploitation in Pforzheim and outsourcing has reduced costs in Wuppertal, similar to shared markets in Tampere.

The factors presented in Tables 3 and 4 often coexist in LPT systems; in addition, these factors apply to different levels of public administration and institutional life. In the context of LPT systems, convergence or divergence might be outcomes of EU-level regulation (see earlier), a national market-oriented zeitgeist (cf. Germany and Finland, including the case cities), local political and financial conditions (cf. Pforzheim and Helsinki) and individual actors, such as public managers (cf. Tampere and Jyväskylä). The research demonstrates a trend toward convergence (defined as “competitive structures” or “quasi-market arrangements”) in LPT systems, with an exceptionally rich complexity of institutional forms and their variants. More studies are required to explore this organisational complexity and the interaction of the shaping factors.

The field of administrative research is interested in the phenomenon of “re-municipalisation”, where previously privatised services are (again) being organised by public authorities. In this context, LPT in Finland cannot confirm the trend. There has been no case of shifting away from private operation in favour of public arrangements. There have been cases when private monopolies have been contested by tendering, with the result of private companies winning the competition and no public authority participating in the tendering, such as the case of Jyväskylä. The reason for this is a market entry barrier in the form of lack of expertise in organising and operating LPT, as well as transaction costs. Since private monopolies have been the standard in Finland, market entry barriers prevent re-municipalisation at least for the time being. In cities where public provision exists, it does not gain overall market shares from private competitors.

In Germany, the situation is different. There is expertise from the regular public operations dating back in time and the development towards privatisation has been delayed by decades, so that privatisation has not happened yet. Before “re-municipalisation” there obviously needs to be a privatisation phase, and the institutional failure can lead to a trend of reviving public operation. The experience of Pforzheim has the potential of becoming a showcase, where the city is ending collaboration with the private operator. Generally, it is too early to identify re-municipalisation in Germany’s LPT.

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INSTITUTIONAL CHANGE OF QUASI-MARKET
ARRANGEMENTS IN LOCAL PUBLIC TRANSPORTATION –
COMPARATIVE OBSERVATIONS FROM
GERMANY AND FINLAND

Summary

The paper analyses the effects of implementation of quasi-market reforms on local public transportation systems in Finland and Germany. Along with several other sectors of public service, local public transportation (LPT) has been subject to market-oriented reforms. In line with worldwide New Public Management reforms, quasi-market arrangements are presumed to produce more value for money for users and citizens. The aim of this paper is to analytically compare the organisational settings of LPT provision and delineate the factors that contribute to institutional convergence and divergence when applying quasi-market models. An extensive dataset of six case cities from Finland and Germany is used in order to analyse some of the most important trends and trajectories for different governmental levels (e.g., EU regulation), reflecting upon the empirical findings from the two countries. Utilizing an institutional theory approach, the relevant quasi-market arrangements in LPT are covered: public monopoly, private monopoly and competitive tendering. The study discusses different factors that contribute to or hinder market-oriented structures in LPT and explores institutional theory-driven explanations as to why, for instance, Finland embraces market structures, whereas Germany shows more resistance to increased competition. Certain issues that seem quite similar irrespective of the two countries' contexts are discussed as well.

Keywords: local public services, public transportation, markets, quasi-markets, Finland, Germany

INSTITUCIONALNA PROMJENA KVAZI-TRŽIŠNIH
ARANŽMANA U LOKALNOM JAVNOM PRIJEVOZU –
KOMPARATIVNE OPSERVACIJE IZ
NJEMAČKE I FINSKE

Sažetak

U radu se analiziraju efekti primjene kvazi-tržišnih reformi na sustave lokalnog javnog prijevoza u Finskoj i Njemačkoj. Lokalni javni prijevoz je s nekoliko drugih sektora javnih službi podvrgnut kvazi-tržišnim reformama. Prema ideji svjetski raširenih reformi u okviru novog javnog menadžmenta, smatra se da će kvazi-tržišni aranžmani dovesti do adekvatne »vrijednosti za novac« za korisnike i građane. Cilj rada je analitički usporediti organizacijsko uređenje lokalnog javnog prijevoza i utvrditi faktore koji pridonose institucionalnom približavanju i udaljavanju kad se primjenjuju kvazi-tržišni modeli. Koriste se bogate baze podataka za šest gradova u Finskoj i Njemačkoj da bi se analizirali neki od najvažnijih trendova i razvojnih linija za različite razine vlasti (primjerice, EU regulacija) te se donose zaključci temeljem empirijskih nalaza iz dvije navedene zemlje. Koristeći pristup institucionalne teorije, analiziraju se relevantni kvazi-tržišni aranžmani u lokalnom javnom prijevozu: monopol javnog sektora, monopol privatnog sektora i natjecateljsko prikupljanje ponuda. Rad raspravlja o različitim faktorima koji pospješuju ili otežavaju djelovanje tržišno orijentiranih struktura u lokalnom javnom prijevozu te ispituje na institucionalnoj teoriji utemeljena tumačenja zašto je, primjerice, Finska prigrlila tržišne strukture dok Njemačka pokazuje više otpora razvijanju kompeticije. Raspravlja se i o pitanjima kod kojih postoji sličnost neovisno o kontekstu dviju zemalja.

Ključne riječi: lokalne javne službe, javni prijevoz, tržišta, kvazi-tržišta, Finska, Njemačka

Local Public Services Provision in China – An Institutional Analysis

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The article reviews the institutional change of local public service provision in China. The emphasis is placed on the characteristics and reasons of the evolution process. The first part presents the characteristics and changes of local public service provision in five periods. The second part analyses public service provision through structural-instrumental, cultural, and environmental perspectives. The third part explores whether China has experienced “pendulum-type” movements like some European countries.

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The institutional change of local public service in China is incremental. Although it shows some convergence with the trend of certain European countries, it retains special features.

Keywords: China, local public service, institutional change, remunicipalization

1. Introduction

In China, both state capacity and administrative professionalization have increased. Simultaneously, a tremendous economic development has taken place, reflected in an average GDP growth of 9.8 per cent per year for two decades until 2010. However, it is undeniable that prosperity has not spread across the whole society and some undesirable consequences have emerged, such as inadequate healthcare, unaffordable housing, the disparities between education in rural and urban areas, etc. For the Chinese Communist Party (CCP) and government the biggest challenge in the present-day China is to provide good governance and handle the challenging consequences of economic reforms (Saich, 2011). Who will face these challenges and address them?

“All Chinese politics is local” – it is often said (Zhou et al., 2007). The four levels of local governments in China (provincial, prefectural, county, and municipal) are involved in providing public services. Sub-provincial levels have considerable expenditure responsibilities; which makes China somewhat special in comparative perspective, and this is especially true at the county and municipal levels (World Bank, 2002). Therefore, it is necessary to focus on China’s public service provision at the local level, which is the main theme of this paper.

The key concepts of public service and remunicipalisation need to be clarified here. Although the terminology of public services differs from country to country, to make the comparative research more feasible, public utilities (water, energy, public transport) as well as the provision of social services (elder care, social housing etc.) and health services have been selected for analysis in this paper. Remunicipalization refers to the “reverse” process when functionally privatized (“outsourced”) functions and services are turned back into public/municipal operation or materially privatised assets are “purchased back” and returned to public/municipal ownership, be it entirely or partially (Wollmann, 2013). This new trend

has emerged in some European countries and generated considerable interest among researchers.

2. Changing Local Public Services Provision

2.1. Maoist Era: Cellular Structure and Self-Reliance (1949–1978)

There is a general perception that up until 1978 the Chinese system had performed well in terms of providing basic public goods and services (Sach, 2008), since it achieved universal and equal availability of public service (Yu, 2014). It is a good example of sustaining social development through public expenditure at low-income levels (Dreze, Sen, 1989). Although most scholars held the consensus that it was an egalitarian government taking care of the whole public service system (allocation system; Yu, 2014), it seems, however, that there were two distinctive features: localism instead of unified and centralized system, and a self-reliant system not entirely financed by the state.

The cellular structure existed in the local public service provision system based on the urban workplace (*danwei*) and rural communes. *Danwei* is a generic term denoting the Chinese socialist workplace and the specific range of practices that it embodies (Bary, 2005). Each work unit functioned as a self-sufficient “welfare society” within which an individual received employment and income protection, and enjoyed heavily subsidized benefits and services such as housing, food, education, recreation, child care, and social security benefits for sickness, maternity, work injury, invalidity and death, and old age (Leung, 1994). The commune system experienced an evolvement from mutual-aid group, an elementary cooperative, to an advanced cooperative system. The peasants were locked in a rural bondage of tight control, low productivity and bare subsistence (Selden, 1993) and got the most basic services from the collective group. Therefore, it would be correct to say that the job assignment, the distribution of grain, and other necessities were unified and central, but the provision of local public service was cellular and place-specific.

Self-reliance (*zi li geng sheng*), the primary principle for providing public services, demanded the lower level organizations to develop capacity in accordance with their own resources with minimal dependence on higher levels. This situation was same with what happened in the economy

area, when Mao promoted the principle of self-reliance, which essentially implied the establishment of a comprehensive, independent economic system not only at the national, but also at the regional and local levels, even down to the level of the communal and the individual enterprise (Chai, 2011). Since local governments could not control the revenue and expenditure of the local public services, municipalities in this period were operators without much financial support and state aid was limited to places too poor to carry out their duties.

Public Utilities. For cities, government had a top-down and state-centric approach to transport management. The transportation projects were financed mainly by the central state budget. Other tasks besides finance, including design, construction, operation, and management, were assigned to 100% state-owned enterprises (SOEs; Mu et al., 2011). For the countryside, those local entities, production brigades and communes, were responsible for mobilizing financial and human resources for public projects including water conservancy facilities such as ditches, irrigation channels and reservoirs, local roads, and buses.

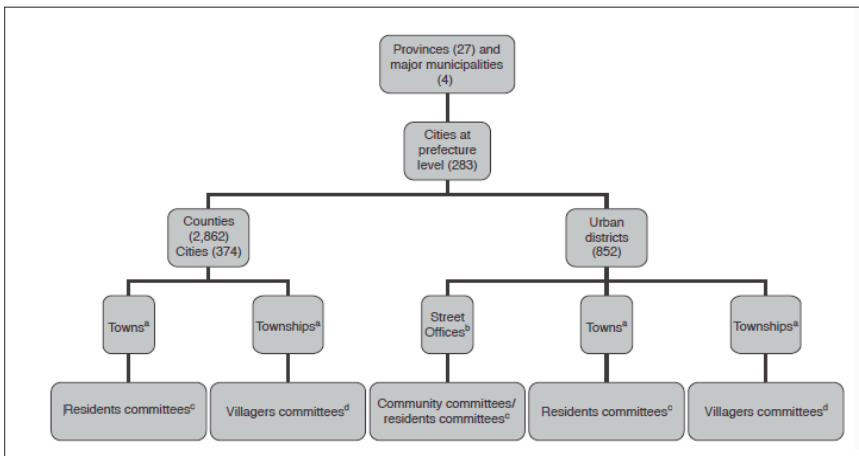
Social Services. Related to elderly care, for the privileged group and office employees, the state was responsible for financing pensions by determining the rates and then enterprises remitted three per cent of their payrolls as contributions to an enterprise pension fund (Frazier, 2004), which was collected by the trade union. For the village residents, as an alternative way of the absence of state responsibility, care for the seniors had been the sole responsibility of the family. Related to housing, the allocation system in the old-style public housing provision involved two stages: the state allocated public rental housing to work units, then the work units distributed the housing to individual households (Yang, Chen, 2014).

2.2. Opening up and Reform: Municipalisation Followed by Immature Marketization (1978–2001)

In the post-1978 era, state and collective institutions in rural and urban China that had previously carried much of the welfare burden, discarded many of their responsibilities and policymakers struggled to devise new policies and institutions to provide welfare services (Saich, 2008). Local public services provision in this stage had three distinctive features. First, the responsibility for social welfare was transferred from the workplaces to local governments and street offices. China operated a supply-side approach to policymaking in providing public services. The central govern-

ment set public policy goals but they were insufficiently funded mandates, with the burden of implementation falling on local government (Saich, 2008). Furthermore, there was the programme of community construction (*shequjianshe*, promoted by the Ministry of Civil Affairs since the mid-1990s (Figure 1). The street office was responsible for the provision of a variety of community services including both public and social services. Although it looked like the government had created new collective organizations to take over the collective aspects of work and service provision that had been provided by the workplace (Bary, 2005), modernization and urbanization weakened the service delivery model that was based on residence, workplace-oriented, and family provided welfare.

Figure 1: Organization of urban government



Source: Yusuf, Saich, 2008

Second, a diversity of service delivery provision emerged. The Deng Xiaoping's leadership proposed the slogan of socialization, which was termed "small state, big society" (*xiao zhengfu, da shehui*), but Wong argued that Chinese-style socialization was another form of privatization (Wong, 1994). The state was in clear retreat: its role in the provision, funding, and regulation of social care was curtailed. Following this, the public services arrangement was transformed from a wholly public one into a public-private hybrid one. However, with the rather immature marketization and commercialization, unaffordable access and low availability of public services was common because recipients had to pay for services in most welfare fields. This change was particularly evident in the area of social

insurance (pensions, medical care, and the newly created unemployment insurance) and higher education (Khan, Riskin, 2001).

Third, more inequality can be observed between urban and rural areas and among different social groups. There was no public service in the rural areas in the 1980s and 1990s (Yu, 2014). Besides, the urbanization and infusion of foreign investment brought new problems to the local government. Migrant workers did not have equal access to state-subsidized benefits provided by public agencies and/or their employers, and they had to rely primarily on their families for housing, healthcare, support services, and other necessities (Xu et al., 2011). This population created new challenges as China's towns and cities strived to knit fragmented social welfare provision into a more coherent framework of support (Yusuf, Saich, 2008).

Public Utilities. China's water sector suffered from poor operating efficiency and slow technological upgrades because of lack of operational expertise of government staff, due to traditional operating of water utilities at low levels of water tariffs established as part of welfare (Browder et al., 2007). In the late 1990s, these complex challenges led the Chinese government to allow private sector participation in the effective management and operation of water and wastewater plants earlier monopolized by the public sector (Choi et al., 2010). As regards the transport, many inefficient SOEs were closed down or privatized; new private enterprises (PEs) entered the transport sector engaging in project construction, financing, operation, and management. For the energy sector, private participation in infrastructure development in China was first seen for the power industry during the 1980s in the form of build-operate-transfer (BOT) (Ke et al., 2011).¹

Social Services. Regarding elderly care, the 1990s witnessed an ongoing shift towards the mixture of social pooling and individual accounts for urban enterprise employees (World Bank, 1997). A three-pillar pension system consisting of a state pension scheme, a supplementary enterprise scheme, and a personal savings plan was established (Shi, Mok, 2012). In housing provision, China's employer-based welfare housing programme was formally abolished in 1998 and an overwhelming majority of the public housing stock was quickly privatized in the early twenty-first century

¹ Shenzhen Shajiao B Power Plant, in operation since 1988, is regarded as the first BOT project in China (Qiao et al., 2002). Several state-approved BOT projects have been granted since late 1996, such as the Shanghai Da Chang Water Project, Changsha Power Project and Chengdu Water Project (Wang, Tiong, 2000).

(Zhao, Bourassa, 2003). Subsequently the SOEs' role was changed from housing buyers to housing sellers (Miao, Rajah, 2014), and then commercial housing became the main option for urban residents.

2.3. New Century: Deeper pluralism and Partial Demunicipalisation (2002–2007)

Fearing potential social unrest arising from general dissatisfaction with the State's ability to address social inequalities, the central government began to be increasingly involved in the public services delivery. The Hu-Wen leadership pledged a new approach based on the idea of a 'harmonious society', 'people-centred development', and 'service-oriented government', trying to build a new public service system with the aim of "equalization of basic public service". Another marked characteristic of this period was further development of the pluralism of public service providers and providing ways, including deeper marketization and non-profit participation. During the reform period, local governments were experimenting with service delivery through a variety of mechanisms: contracts and concessions to not-for-profit and for-profit organizations, public-private joint ventures, and informal and voluntary cooperation (Saich, 2008).

Referring to the for-profit organization, the 2002 Government Procurement Law allowed contracting to the private sector for the provision of support functions, social services, and public works projects. They utilized franchises for public services such as passenger transportation and garbage disposal, and vouchers for elderly home care (Teets, 2012). About the non-profit organization, the statistics of the Ministry of Civil Affairs (MCA) showed that before 1978 there had been only about 6,000 social organizations in China. By the end of 2006, their number had reached 186,000. Enterprises, social groups, and individuals had set up about 700,000 not-for-profit institutions to provide social services. This category included private schools, hospitals, community service centres, vocational training centres, research institutes, and recreational facilities (Yusuf, Saich, 2008). As multiple cities explored the possibility of contracting out government services, the purchase of public services by governments from NGOs became a new public service model.

Public Utilities. From 1993 to 2007, the provision of transport infrastructure services in China moved away from the realm of government to that of the private sector through PPPs. From roads to ports, and later to subways, state-owned monopolistic enterprises gave way to a wide range of

private players operating in a relatively competitive environment, but with far from complete economic regulation (Huang et al., 2009). New institutional framework consisted of independent regulatory agencies such as project tendering committees, competition law and amended property rights law. PPP water projects also gained increasing popularity in the market and more than 500 projects had utilized the build-operate-transfer (BOT), transfer-operate-transfer (TOT), and divestiture business models until 2009. For foreign investment, 2002 was a turning point, the entire municipal water service sector, including water distribution networks, were opened to foreign investment (Jang, 2014). Regarding the energy provision, the landmark Scheme for the Reform of the Power Industry was enacted in 2002 and was aimed at developing market-oriented electricity system. However, the serious power shortage during 2003–2004 made expansion of generating capacity more important than market-oriented reform. The central government invested huge amounts of treasury bonds in infrastructure construction, and was determined to clean up the illegal projects, which led to a fadeout of the first round of private investment (Shen et al., 2005). With the state advances, the private sector retreated and the state-owned enterprises became the biggest winners in expanding generation.

Social Services. China's new pension system, which has three separate programmes (for public employees, urban workers, and rural residents) covers about 50 per cent of urban residents and a limited number of rural workers (all three are contributory programmes, and the pension program for rural residents is voluntary) (Woo et al., 2002). From 2000 onwards, the central government has issued many policies and organized conferences that focused on setting up community-based welfare service systems. Furthermore, an increased number of private nursing homes improve care quality through the Elder Care Foundation sponsored by the government. The Beijing municipal government provides a 100-yuan subsidy for each bed per month as an incentive to encourage non-governmental organisations (NGOs) and the private sector to build and operate nursing homes (Wenyi, 2014). Between 2003 and 2007, housing prices increased 66 per cent nationwide, making affordable housing a more serious challenge and leading to public criticism. In response, the government launched the Price Cap Housing, also called double-cap housing, when developers acquired land and local governments set a cap in advance on the end price they could charge buyers for the land and the housing unit (Zou, 2014).

Health care. The outburst of the SARS crisis in 2003 exposed many problems existing in China's public health field, such as lack of governmental

functions, problems of marketization and imbalance of health resources between urban and rural areas, etc. Confronted with concern from the whole society, the government developed the Urban Employee Basic Medical Insurance System (UEBMI), the New Rural Cooperative Medical System (NRCMS) and the Urban Resident Basic Medical Insurance System (URBMI). A summary of characteristics of the three schemes with respect to revenue collection, risk pooling, benefit packages, provider payment methods and other features is provided in Table 1.

Table 1: Comparison of characteristics of UEBMI, NRCMS and URBMI (Li et al., 2011)

	UEBMI	NRCMS	URBMI
Initiated in	1998	2003	2007
Target population	Urban employees	Rural residents	Urban unemployed
Population covered (million)	200	815	118
Annual revenues collected (Billion RMB)	304	78.5	Unavailable
Enrolment nature	Mandatory	Voluntary	Voluntary
Risk pooling	Municipal level	County level	Municipal level
Benefit Package	Outpatient and inpatient care	Focus on inpatient care	Focus on inpatient care and catastrophic outpatient care
Average reimbursement rate of inpatient care costs (in %)	66.2	36.4	49.2

Source: Li et al., 2011

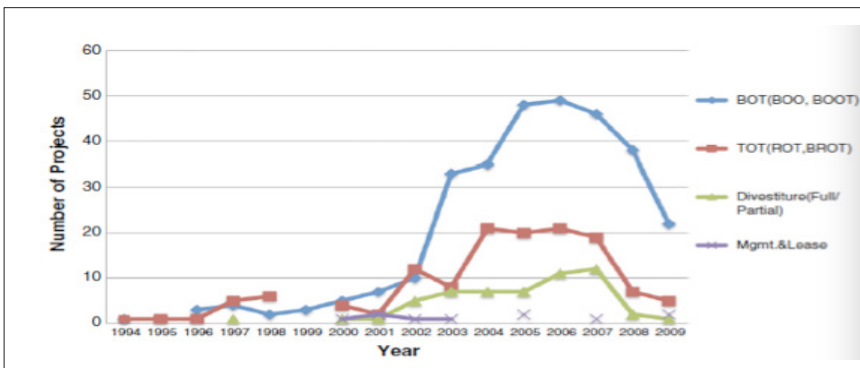
2.4. After Financial Crisis: Both Recentralization and Remunicipalization (2008-Present)

Since 2008, some renationalization or regovernmentalisation of services has become popular at the local level. Associated data and academic research about this new trend are still scarce because this phenomenon has just appeared. However, the media report that some private schools (run by the local people) have been converted back to public ownership; some buses, tunnels, and bridges have been gradually repurchased by the local government; and some private hospitals have become public hos-

pitals again.² Cases of repurchase of hospitals have occurred in Jiangxi, Shanghai, Zhejiang and other provinces. In 2010, in Zhejiang Province, Hangzhou Yuhang District Government announced that 28 hospitals, which had been sold to private businesspeople for 75 million RMB a few years earlier, were repurchased for 300 million RMB.³

Public Utilities. The private sector's contribution to the Chinese water market declined significantly during the global financial crises (GFC) of 2008 and 2009, partly because of the fiscal stimulus packages introduced by the central government, which eventually reversed the tendency of local governments to tap private financing (World Bank, 2009). It can be seen from Figure 2 that the number of BOT projects increased dramatically between 2002 and 2006, and the number of TOT projects increased rapidly in 2004 over the previous year, but it decreased sharply at around 2008. The similar phenomenon happened in the transport sector. The crisis caused the bankruptcy of many private construction companies. For example, some 90 per cent of small and medium-sized companies in Guangdong Province met financial problems. As a consequence, a lot of PPP contracts were terminated prematurely. Thus, a shift away from PPPs and toward the use of SOEs to provide transport infrastructure can be observed since 2007 (Mu et al., 2011).

Figure 2: Number of projects by different PPP schemes in China's water market



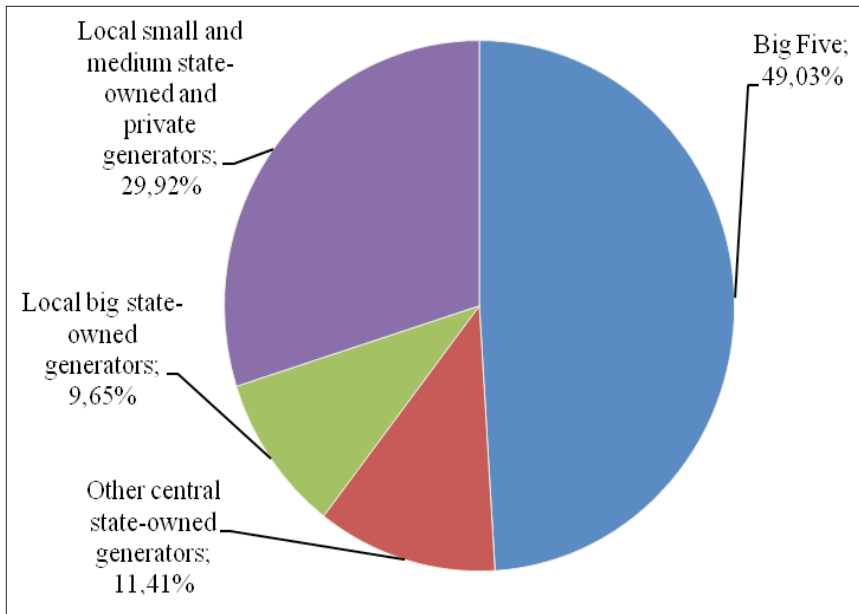
Source: Jang et al., 2014

² <http://news.163.com/11/0410/06/718PUG7S00014AED.html> (8.6.2014)

³ <http://finance.ifeng.com/opinion/mssd/20101026/2770646.shtml> (15.7.2014)

In energy provision, Chinese market-oriented reform seems to have reverted to the starting point – from an absolute to a relative monopoly (Wang, Chen, 2012). As shown in Figure 3, the central state-owned generators accounted for 60.44 per cent of the total installed capacity in 2010, of which the Big Five (Huadian Corporation, China Guodian Corporation, China Datang Corporation, China Huaneng Group, and China Power Investment Corporation) made up 49.03 per cent (SERC, 2011). These Big Five and other central state-owned power generators are managed by a central government department, the State-Owned Assets Supervision and Administration Commission (SASAC).

Figure 3: The percentage of different ownership in China's total installed capacity in 2010



Source: SERC, 2011

Social Services. Regarding elderly care, in 2009 China introduced a nationwide, experimental rural social pension programme based on a number of pilot studies in selected rural areas. Government officials expected the scheme to cover 10 per cent of rural regions by the end of 2009, about 50 per cent by 2012, and 100 per cent by 2020. A major feature of this scheme is that, for the first time in China's long history, the government

will make direct contributions to a rural pension scheme (Shen, Williamson, 2010). Regarding the housing issue, Premier Wen Jiabao announced in early 2010 that China would provide 5.8 million Social Housing units. Then he went even further in the following year by expanding the Social Housing programme to 36 million units between 2011 and 2016, making it the largest affordable housing programme so far (Zou, 2014). The new institutions of public services provision are enlarging the scope of coverage as shown in Table 2, with the migrants being incorporated into the housing framework.

Table 2: Affordable housing programmes in China

Programmes	Period	Housing tenure	Target groups
Peaceful Living Project(PLP) Social Housing	1995–1998	Ownership	Low and moderate-income households
Cheap-Rent Housing (CRH)	1994-present	Rental	Very poor households
Economic and Comfortable Housing(ECH)	1998-present	Ownership	Low and moderate-income households (before 2007) Low-income households (after 2007)
Price-Cap Housing(PLH)	2007-present	Ownership	Middle class who cannot afford market housing
Public Rent Housing(PRH)	2010-present	Rental	Low and moderate-income households; new employees, and eligible migrants in some cities

Source: Zou, 2014

3. A Transformative Approach

According to a transformative approach, public actors involved in reform processes are constrained and influenced by three sets of factors or contexts – polity features, historical institutional context and environmental pressure – seen through a structural-instrumental, cultural and environmental perspectives respectively (Christensen, Lègreid, 2001, 2007).

3.1. Structural Perspective

Socialism and Neo-liberalism. Structural, constitutional, and polity factors related to a structural-instrumental perspective go some way towards explaining how political governmental leaders control and handle reform processes (Weaver, Rockman, 1993; Olsen, 1992). After China's acceptance of contemporary ideas and strategies of neo-liberalism in the post-reform era and party leaders' embracing the "reform and opening up" policy that called for governing by market mechanism and autonomy, the simple and over deterministic description like "socialism" or "authoritarianism" is unable to capture the nature of this country adequately. Perhaps a hybrid neoliberal structural form has emerged in China (Elaine, 2009), or it can be called an authoritarian political structure combined with growing economic liberalization (Saich, 2004). From this perspective, the broad reforms and heterogeneous systems of China (Christensen et al., 2012) lead to a mixed delivery mechanism of public services, the hierarchy and market coexist in the process of institution evolution. On the one hand, China has moved further down the road of privatization and adopted policies to boost the role of markets in service provision. On the other hand, the CCP's commitment to socialist ideology means that it retains a state-dominant view (Saich, 2008).

Control or Autonomy. Although Chinese central and regional/local governments are often regarded as two groups of opposite and conflicting actors: principal versus agent, reformer versus stakeholder, and supervisor versus supervisee (Li, 2010), benign agents versus malign agents, the truth is far more complex. Policy deviation instead of flexibility is more common in Chinese bureaucracy. Local governments have a tendency to develop coping strategies in ways that often sidetrack state policies, or impose their own interpretation in the implementation process (Zhou, 2009). It can be vividly captured in a popular Chinese saying: "From above there are imposed policies, and from below there are evading strategies" (*shang you zhengce, xia you duice*), or "the heaven is high and the emperor is far away" (*tiangaohuang di yuan*). This kind of policy noncompliance occurs naturally within China's extremely hierarchical system (Wedeman, 2001). On the one hand, the top-bottom political control maintains the hierarchy system in the provision of local public services and ensures the overall framework is designed by the central government. On the other hand, however, local government has received greater powers over investment approval, entry and exit regulation, and resource allocation (Lin et al., 2005). The newly acquired autonomy leaves room for municipalities take

over the provision mechanism in accordance with their local conditions and interests. It also urges them to take initiative or make experiments to improve the provision of public services. Both privatization and remunicipalisation can be understood from this perspective.

3.2. Cultural Perspective

Historical Legacy. A cultural perspective highlights the constraints and possibilities lying within established cultures and traditions (Christensen et al., 2009). Political-administrative systems over time develop cultural-institutional features of informal norms and values related to gradual adaptation to internal and external pressure (Selznick, 1957). One of the central mechanisms is path dependency (Christensen et al., 2012), which suggests that the institutional legacies of the past limit the range of current possibilities and/or options in institutional innovation. The first major legacy is Maoism, which emphasizes frugality, industry, self-reliance, and collective mutual help coupled with revolutionary stresses on sacrifice, the proletarian work ethics, and local self-sufficiency (Wong, 1998). Community service can be regarded as another form of collective organization for the mutual aid in urban areas. The concept of self-reliance or self-sufficiency, the idea that each locality should use its own resources and request only limited support from other levels of government, (Saich, 2008) remains an important principle for local public service provision. There are very few institutionalized channels for gaining support from high-level governments to provide public goods, especially in rural areas (Tsai, 2002). Additionally, social policies have reflected the bias of the official ideology, which has always prioritized the provision of social benefits to the privileged urban population like workers in the SOEs and in the government bureaucracy, rather than to villagers.

As the core traditional culture, Confucianism has an important influence on social services. Most individuals obtain their physical care and material, emotional, and social needs in the family. This basic pattern has remained largely intact by the reform (Wong, 2005). When professional programmes such as childcare, aid to the handicapped, job placement, counselling, and home help remain undeveloped, families bravely take over without compensation (Wong, 1998). For example, elderly care is rooted in Confucianism, which has always made care for older family members, parental devotion (filial piety), and ancestor worship normative family duties (Zhan, Montgomery, 2003). Despite the tremendous

increase in elder care institutions, the proportion of older people in them remains small compared to the total number of people who need it. One reason is family feelings of responsibility and the related guilt for placing one's parents in an institution (Zhan et al., 2006).

Modernization Concepts. By 1992, agencies such as the United Nations Development Fund, the World Bank, and the Asian Development Bank had all been working in China on various development programmes for more than a decade. Despite the apparent ideological differences between these institutions and that of the Chinese Party-state, the scope for cooperation and the transfer of technologies of government was considerable insofar as they shared a common discourse of developmentalism. Although the Chinese governmental structure might seem far removed from the UK and New Zealand, there are the same kinds of pressures that have resulted in the terms of “New Public Management” or “Reinventing Government”, impacting on institutions and policies (Kamarck, 2004). Local service provision focusing of efficiency reflects this trend, as do privatization of hospitals and schools, competitive tendering, or PPP (Alfen et al., 2009). The last decade or so has partly added to and partly modified this trend in local service provision. One of the doctrines is “New Social Governance”, which was extensively used in western scholarly and government writings and later taken up in China. The other is “Post-NPM”, emerging first in New Zealand and Australia in the late 1990s and focusing on recentralization and increase coordination (Christensen, Lègreid, 2007). This reform wave is empirically exemplified in central government or provinces trying to increase control in different ways – either structurally, through new policies, or economy-related, through local service provision.

3.3. Environmental Perspective

The reform and its participants have to cope with complex environments. The technical environment generates mechanisms or pressures for change caused by political, economic, technological, or social changes. The institutional environment comprises ideas and beliefs about practices that are communicated through organizational processes such as myths and symbols shared among organizational leaders about what is “modern” or “best practices” (Christensen et al., 2012).

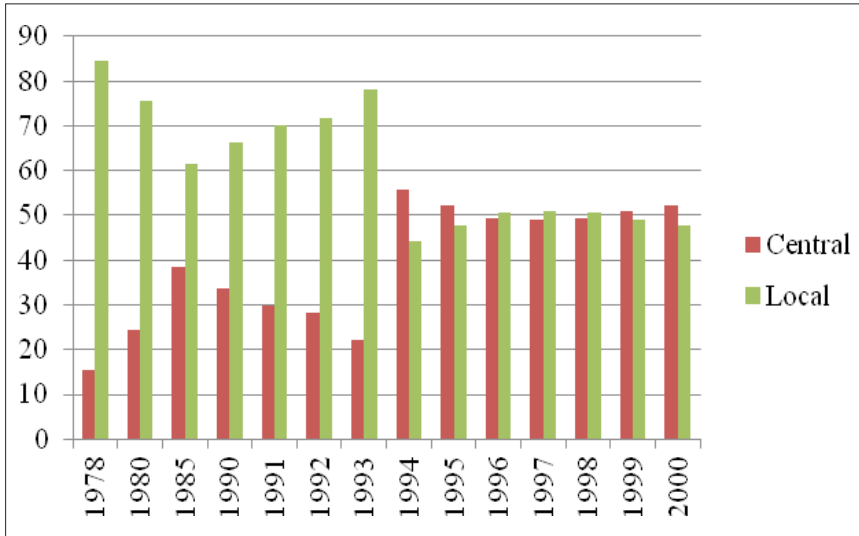
Central-Local Relationship – Fiscal Structure. Changes in the fiscal system have had an important impact on the local public service provision through

the incentives for and constraints on local government. China dispersed its highly centralized fiscal management system (1949-1978) with various forms of fiscal contracting systems (1979-1993) and later a tax sharing system to recentralize the financial sources (1994-present). Prior to 1978, fiscal revenues and expenditures had been centralized in the Chinese state bureaucracy. Profits and taxes collected by local governments were handed over to the centre (Peng, 2001). With the introduction of fiscal contracts in 1988, provinces were allowed to retain a specified proportion of revenues collected, over a targeted amount. Provinces had such agreements with counties and small cities, which in turn made similar agreements with townships and small towns (Walder, 2007). Therefore, the central government's share of budgetary revenues decreased dramatically (Wong, 1997). By 1993, the sub-national share of total fiscal revenue had reached 78.9 per cent. A tax sharing system (*fenshuizhi*), which established central and local government tax bases, has been implemented since 1994 as a measure of recentralizing fiscal management.

The conflict between shouldering more financial responsibility for social services and dramatically decreased revenue (Figures 3 and 4), the lack of financial capabilities and adequate incentive for public services stimulates a strong urge in local governments to pursue financial resources and transfer the responsibilities of public services to the market and the individual. Even if the central government initiates a new programme, which is beneficial for the public interests, local governments sometimes show little enthusiasm about it. Take the PCH programmes for example. Local governments did not want to allocate land that could be developed in the ways that yield greater benefits, and were worried that the PCH programme could jeopardize the local housing market. As a result, only those cities with strong fiscal capacities enacted the programme (Zou, 2014).

Now local governments rely on transfers from the central government to balance their budgets. Transfers are in the form of tax rebates, general transfers, fixed subsidies or submission under the old system, budgetary subsidies, and appropriations for special projects (matching grants) (Li, Lin, 2011). With the central government giving priority to public social welfare, remunicipalisation generates a new financial stimulus for local governments. Nevertheless, the lower the level of government, the less money is available for transfer, and the main burden still falls on underfunded local governments, leading to great variation in provision of services, so the county and township level governments are in a difficult fiscal position.

Figure 3: Change in income of central and local governments related to tax distribution system



Source: Data compiled according to China Statistic Yearbook 1978–2000

Figure 4: Change in expenses of central and local governments related to tax distribution system



Source: Data compiled according to China Statistic Yearbook 1978–2000

Political Structure. The evolution of performance evaluation has had a profound effect on the provision of local public services. It can be divided into three stages. Prior to 1978, the Chinese performance appraisal process had become politicized, resulting in appraisal findings that were actually political outcomes. At the second stage, with the focus on economic growth and structural adjustment and stabilization, insufficient policy attention to public services provision persisted through the 1980s and into the first half of the 1990s. The motivation from cadre responsibility system, performance contracts and political contraction system can be institutionalized as “pressure system” (*yalixing tizhi*), or “the tournament system” (*jinhiaosai tizhi*). This evaluation system not only distracted the local bureaucracies from improving social services, but also took the risk of the PPP projects in public utilities. Since local governments devoted far too much attention to their career achievement, it was quite natural for them to make wrong decisions such as inaccurate predictions of demand for the projects.

In September 2004, Hu Jintao proposed building a harmonious society and called for conducting reform measures to stimulate social vitality, promote social justice and fairness, enhance the sense of law and the sense of integrity in the whole society, and safeguard social stability and unity. This move clearly signalled a shift in the CCP’s focus from exclusive promotion of economic growth to solving increasing social tensions (Gao, 2010). Following this, some local governments implemented a modified performance measurement system and gave higher priority to the performance of public services, especially social services.

Local Government and Enterprise. The changing relationship between the municipalities and enterprise has influenced the degree of privatization and the mechanism of local public services. In the 1990s, financial decentralization and property rights reform promoted a tendency of local government to be entrepreneurial for increasing revenue, and local actors were more concerned with participating in the economic activities and providing an attractive environment. Some new terms were generated, like “entrepreneurial state” (Blecher, 1991), “industrial firms” (Walder, 1995), “local state corporatism” (Oi, 1999). They reflected the government intervention in the private areas and private enterprise dependence on the governments. This intertwined relationship distorted the marketization of local public services provision and limited the use of some measures such as contracting. After the Ninth National People’s Congress in March 1998, the leadership began to promote the separation between government and enterprise. Local governments were forbidden to involve

in enterprise activities and began to become the independent regulators. There was a shift from the old “command and control” forms of regulation to the one characterized by contracts and covenants between public and private actors, and to information management (Saich, 2008).

However, it is still essential for private investors to strive for the governments’ cooperation and assistance, but this may substantially increase the cost of such cooperation and assistance due to the corruption of some local government officials (Wang, 2002). In addition to money, project companies have to spend a lot of time and effort in dealing with the government, which also has a negative influence on the efficiency of the companies’ operation, management, and profits (Ho, 2006). Local governments still tend to transact with the divested SOEs, service units, or supervised NPOs with which they still have financial, personnel, or personal ties (Teets, 2012). Yongjian Ke’s research about the probability and consequence of risks in China’s PPP project has shown that the top ten risks are government’s intervention, poor political decision making, financial risk, government’s reliability, market demand change, corruption, subjective evaluation, interest rate, immature judicial system, and inflation (Ke et al., 2011). Apparently, it is still a way to go before local governments are able to provide a stable external environment and become a mature regulator for the PPP Corporation.

Local Government and Civil Society. In the post-reform era, Chinese citizens’ demands for public services are increasing comprehensively and rapidly, which also affects the institutional environment, i.e. local governments have to be increasingly sensitive to how the public see their activities. However, the authoritarian political system has so far thwarted the development of ‘voice’ mechanisms vital to the demand-side information; policies are often decided behind closed doors without researching and documenting the need of the public for public services (Li, 2008). As a substitute to the formal institutions, public demands are expressed in different ways, usually through protest. In dozens of cities in the early 1990, dissatisfied pensioners (Hurst, O’Brien, 2002) engaged in protests over unpaid benefits, over unfair remuneration in the distribution of severance pay from bankrupt firms, and so on. These protests highlighted the failure of the reform to provide adequate retirement incomes to the millions who entered the ranks of urban retirees in the 1990s (Frazier, 2004). Consequently, they pushed a new pension reform and the government started to increase its participation and investment in this area.

Besides citizens, non-profit organizations also play a positive role. One of the reasons why the provision public of services has become more diversified is that local government leaders are more willing to cooperate with non-governmental organizations. Li Jiang, secretary general of Hunan province contends, “The government can’t manage, shouldn’t manage, or doesn’t manage well...of course, in the development of social organizations there is the need for a process of adjustment, this is a new task for our country” (Ng Tze-Wei, 2011). However, many factors hinder China’s civil society development and its influence on the services delivery, including exogenous factors such as the regulatory system and ideology, as well as endogenous factors such as the lack of professional competences among NGOs themselves (Wang, 2014). Local governments keep imposing constraints on the autonomy of civil society organizations. Legal requirements and layers of governmental bureaucracy thwart many organizations that are too small and have too few resources to meet the registration requirements (Xu, Chou, 2011). The work strategy of most NGOs that have already been registered is based on maintaining close government relations to ensure their continued existence and political acceptance. Some may even nest within government bodies using official personnel and resources to carry out their programmes (Saich, 2008). For example, the service centres for elderly care are independent of the government and run as partially non-governmental organisations. However, as the government is seen as the chief programme designer, the service centres merely play a role of policy implementer. Due to government intervention, community service providers enjoy limited autonomy and have to shoulder part of administrative burden transferred to them by the government (Wenyi, 2014). Thus, although the non-profit participation is being increased, we are still far from creating the networks or governance structure in the public services provision, because civil society is weaker and more immature than the hierarchy system and the market.

4. Comparison between Europe and China

The development path of service delivery in Europe and China has many commonalities as well as differences. In the first stage, due to the standard communist system, the provision of local public services in China was similar to that in central-eastern European (CEE) countries, public utilities were in state ownership, and provision of social services was based on workplace or families. The fact that public utilities were owned by the

state but established and operated by local governments, which lacked the financial power and resources, was not of importance. After 1978, with the process of both financial and administrative decentralization, almost all responsibilities of public service were transferred to municipalities. However, this situation did not last long. Local governments had to fulfil the GDP growth assignments, which was vital for their promotion by the superior governments. Furthermore, the new financial reform of recentralizing fiscal management had made many localities take too many expenditure responsibilities that were out of their financial capabilities. Those circumstances stimulated local governments to initiate a pro-market reform to transfer their burden to enterprises influenced by neoliberal economic policies and Deng Xiaoping's famous Southern Tour of 1992. Thus, the provision of local public services in China showed the convergence with that of European countries in the 1990s, which was featured by marketization and privatization intending to replace the 'in house' and administratively integrated provision of services with 'outsourcing' them to private sectors. The privatization in this stage was rather immature.

At the beginning of the new century, there was partial demunicipalisation, featured by the increased state involvement and deeper pluralism in the delivery of local public services. Specifically, central government put equal access to basic public services on the work agenda and increased its investment in social services provision, particularly in rural areas. Regarding public utilities, there was a new trend of public-private partnership model replacing common privatization. Diversification of social services providers increased further by the emergence of civil society-type formations. A larger number of services, such as elderly care, have been outsourced to a larger number of organizationally distinct providers.

In 2008, the global scale financial crisis affected both European countries and China. The private sector's contribution to the public utilities market declined significantly. Some local governments attempted to 'remunicipalise' the previously 'outsourced' or (asset) privatized services, such as buses, tunnels, and bridges, partly because of the fiscal stimulus packages introduced by the central government. At the same time, "recentralization" also occurred, a shift away from PPP adoption towards the use of SOEs to provide transport infrastructure. A new type of monopoly was developed in energy sector – the state advanced, the private sector retreated. Compared to public utilities, social services were more divergent than in most Europe countries. Although the 'marketization' and 'diversification' are still going on, both central government and local governments

get a momentum and invest more in the provision of social services, the situation is highly hybrid.

Has public service provision in China experienced “pendulum-type” movements? A clear distinction needs to be made between the provision of public utilities and social services. For public utilities, the answer seems to be positive. For social services, the answer is different.

5. Conclusion

The institutional change of local public service in China is incremental. Although it shows some convergence with the trends in certain European countries, it retains special features shaped by disequilibrium and instability. China’s four-legged stool of welfare support is operating with two long legs (state and family) and two truncated legs (civil society and the market), thus creating imbalance in the system and perpetuating existing inequalities (Saich, 2008).

However, there is no doubt that public service provision in China has undergone a fundamental shift, an increase in government capacities as a prerequisite for an effective market and civil society to function. In a situation when most local governments around the world try to create new partnerships with society and market to provide better public services, China is no exception.

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LOCAL PUBLIC SERVICES PROVISION IN CHINA – AN INSTITUTIONAL ANALYSIS

Summary

The article reviews the institutional change of local public service provision in China. The emphasis is placed on the characteristics and reasons of the evolution process. The first part presents the characteristics and changes of local public service provision in five periods. The second part analyses public service provision through structural-instrumental, cultural and environmental perspectives. The third part explores whether China has experienced “pendulum-type” movements like some Europe countries. The institutional change of local public service in China is incremental. Although it shows some convergence with the trend of certain European countries, it retains special features.

Keywords: China, local public service, institutional change, remunicipalization

PRUŽANJE LOKALNIH JAVNIH SLUŽBI U KINI – INSTITUCIONALNA ANALIZA

Sažetak

U radu se analizira institucionalna promjena u pružanju lokalnih javnih službi u Kini. Naglasak je na karakteristikama i razlozima procesa evolucije. U prvom se dijelu prezentiraju karakteristike i promjene u pružanju lokalnih javnih službi u pet faza. U drugom se dijelu pružanje lokalnih javnih službi analizira iz strukturalno-instrumentalne, kulturološke i okolišne perspektive. Treći dio istražuje ima li razvoj pružanja lokalnih javnih službi u Kini značajke krucijalnih promjena nalik na one u europskim zemljama (npr. remunicipalizacija). Institucionalna promjena lokalnih javnih službi u Kini je postupna. Premda postoje određene sličnosti s trendovima u nekim europskim zemljama, ona ipak zadržava svoje specifične osobine.

Ključne riječi: Kina, lokalne javne službe, institucionalna promjena, remunicipalizacija

Economic Aspects of the Municipal Waste Management: The Czech Republic and Slovakia

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This paper provides data from the research about municipal waste management in the Czech Republic and Slovakia. Three issues are covered: scale and results from contracting out, impact of competition of costs, and economies of scale. From the point of view of forms of waste management service, despite the methodological problems, the research does not confirm priority of contracting

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out and suggests that the decisions about the best form of local service provision should respect local conditions and not any universal pattern. The authors also show that lack of competition is one of the main causes of the limited results obtained by contracting and that results of procuring the service can be affected by the existence of cartel. The results of the analysis of the economies of scale in waste management in the Czech Republic indicate that the bottom of the cost curve is to be found at about 2,000 inhabitants.

Key words: waste management, municipalities, Czech Republic, Slovakia, efficiency, competition, economies of scale, contracting out

1. Introduction

Municipal waste management is a typical communal service and its costs represent important part of expenditures of municipalities in the developed countries. It is also an area where local governments permanently search for optimum delivery modes in their concrete conditions. Contracting out (transfer of production of the service to the private body) is a rather frequent solution, but the practice has already confirmed that New Public Management-based assumption about the priority of private delivery arrangements cannot be confirmed by real data, especially in developing and transitional countries. The aim of this paper is to analyse three selected economic aspects of waste management based on data from two countries with common history – the Czech Republic and Slovakia.¹ The first analytical part deals with the modes of delivery and their results, the second with completion, and the third with economies of scale. Because three different (although interconnected) aspects are analysed, respective theoretical frameworks always introduce concrete analysis.

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2. Delivery Modes of Municipal Waste Management

Municipalities and existing forms of local administrations have always played a major role in waste management on the territory of the former Czechoslovak state. During the socialist period (1945–1989), waste management was the standard communal service, delivered by state owned companies responsible for most of communal services (frequently called *Technicke sluzby*). The service was free for inhabitants and functioned relatively well.

After the democratic changes in 1989, new standard local self-government structures were created very quickly (Law on Local Self-Government of 1990) and waste management became the responsibility of municipalities. The Czechoslovak Republic symbolically continued to maintain its existing supreme position in the field of waste in Central Europe; it was the first post-communist country to adopt a new law on waste management (in 1992). After the split in 1993, both countries continued building a modern comprehensive waste management system on the state and municipal levels, by very similar parts and means.

Contracting out. Contracting out public services is a market-type solution expected to cope with the alleged problems of inefficiency in the public sector. Under this arrangement, (local) government retains responsibility for the provision of the service, but hires private firms to perform it. Contracting can also be defined as a binding agreement in which a public institution pays a private firm or non-profit organization to provide a specific level and quality of a public service. Citizens as customers, through their taxes or user fees, pay the government, which in turn pays the contractor. According to Savas (1977), since the provision function is retained by the government, contracting represents a conservative approach to increasing the role of the private sector.

Contracting out stems from the “organizational decision to make or buy a good or service” (Prager, 1994: 176). The guiding principle behind the choice whether to produce goods and services internally or to contract them out is to increase efficiency, while maintaining or increasing the quality of delivery of a public service.

The potential beneficial impacts of contracting are connected mainly with increasing individual choice, and improving cost-effectiveness, quality, and equity (e.g. Bailey, 1999; Ûvretveit, 1995; Lane, 2000). However, these assumptions have not been fully confirmed by hard data and exist-

ing empirical studies (Bel, Costas, 2006; Bel, Warner, 2008) cannot even confirm the effect of the mode of production on costs, which has been the main argument in favour of contracting. Moreover, some authors stress the barriers to effective contracting as well as the negative impacts connected with the use of competition and contracting (Bailey, 1999; Pollit, Bouckaert, 2000; Lowery, 1998). Critical main barriers are possible lack of competition, often due to the small number of potential suppliers for many public services and limited information (one of its dimensions, principal-agent theory, is briefly discussed below).

According to Prager, the general rule of public sector organizations is to “internalize operations to the point where the costs of further expansion are perceived to be greater than the costs of acquiring the components or services in the market” (Prager, 1994: 84). In addition, production should be internalized when there is a need for close control of the production process.

Public choice theory (e.g. Gruening, 2001) views governmental decision makers as self-interest-seeking individuals working in an environment in which information asymmetry, bounded rationality, and opportunism lead to problems of transaction costs and agency costs.

Establishing and maintaining a legal contractual relationship between the principal and the agent is connected with many problems and risks (Arrow, 1985; Cooper, 2003; Kettl, 1993; More, 1984; Pratt, Zeckhauser, 1986). According to Shetterly (1998: 23), this process occurs in three phases: pre-solicitation, contractor selection, and contract management. All three phases potentially suffer from the classic “principal-agent” problem situation in which the relevant characteristics and actions of agents are not directly observable by principals.

The transaction costs associated with contracting out and the relationship of these costs to benefits derived from external delivery are essential elements of the contracting relationship (Prager, 1994; Hirsch, 1991; Brown, Potoski, 2005). When contracting for services, governments incur contracting costs which are implicitly or explicitly part of the make or buy decision. The transaction costs of contracting are of two types: “those associated with the contract formation stage and those associated with the contract performance stage” (Hirsch, 1991: 56–57).

The theory summarised above predicts that, in developed countries, contracting may, but need not, improve the performance of the public sector. The outcome depends on local conditions, including the capacity of the implementing body to execute the contracting process. The situ-

ation is much more complicated in transitional countries, where several socio-economic preconditions for successful contracting are insufficiently developed (relatively high level of corruption – see Table 1, limited competition, lack of democratic control, underdeveloped rule of law) and, in some countries, also territorial fragmentation limits the capacities of local governments.

Table 1: Selected Indicators of Corruption in Slovakia and the Czech Republic

Country	Year	Observations	A	J	K	L	M
Czech Republic	2002	182	35.93	26.58	1.21	14.29	..
Czech Republic	2005	208	29.73	36.82	1.98	25.49	..
Czech Republic	2009	250	8.73	30.31	1.49	25.12	35.15
Slovakia	2002	110	64.44	56.18	3.35	32.04	..
Slovakia	2005	143	35.87	38.20	2.20	13.64	..
Slovakia	2009	275	11.63	23.60	2.31	33.11	20.67

Note: A – % of firms expecting to make an informal payment to public officials (to get things done); J – % of firms expecting to give gifts to secure a government contract; K – Value of gift expected to secure government contract (% of contract); L – % of firms identifying corruption as a major constraint; M – % of firms believing the court system is fair, impartial and uncorrupted

Source: <http://www.enterprisesurveys.org/>

Methodology. This part is based mainly on authors' primary research data from systemic research about waste management provision methods in the Czech Republic and in Slovakia (Table 2 indicates research samples – most of them are fully representative).

Table 2: Research Samples

Year	Slovakia sample	Year	Czech Republic sample
2001	A representative sample of 55 municipalities of varying sizes	2000	A representative sample of 50 municipalities of varying sizes
2005	A sample of 17 municipalities of the same size	2004	Data collected by Pavel (2006) with the support of Transparency International Czechia. The sample covered 100 municipalities
2006	A representative sample of 100 municipalities from the 2006 research project (including our team) of Transparency International Slovakia	2007	A representative sample of 900 municipalities of varying sizes
2008	A sample of 28 municipalities of varying sizes	2008	A representative sample of 79 municipalities of varying sizes
2009	A representative sample of 131 municipalities of varying sizes	2009–2011	A representative sample of 673 municipalities of varying sizes, the South Moravian Region
2010	A representative sample of 141 municipalities of varying sizes		

Source: Authors

The data, collected by questionnaires or downloaded directly from existing national Linked Open Data Systems (UFIS,² ARIS³ in the Czech Republic), are tested for the hypothesis that contracting out improves efficiency in the majority of cases.

To confirm or reject this hypothesis, we measured the efficiency of different modes of waste management provision by simple cost minimization method – we compared the unit costs of external and internal provision.

In order to understand the data obtained, two factors determining their complexity and character must be considered:

1. There are no official standards for local public service provision; the quantity and quality of the service in different municipalities of the same size must be assumed to be similar.
2. There is no complexity in financial monitoring of waste management costs by the local self-government. There is no accrual ac-

² <http://wwwinfo.mfcr.cz/ufis/>

³ <http://wwwinfo.mfcr.cz/aris/>

countancy at the local self-government level and no possibility to find the real cost value of service provision. In such conditions, the costs of internal provision are under-evaluated.

Results. The obtained data indicate that all main forms of provision of waste management services (provision remains the responsibility of local self-governments) are significant at the municipal level in both countries – internal production, contracting out or mixed forms are almost equal by proportion (contracting out dominates for smaller municipalities, municipal or mixed enterprises in large towns) – Table 3.

Table 3: Percentage of Contracted Local Public Services

Service	2000 CZE	2001 SK	2004 CZE	2005 SK	2006 SK	2008 SK	2009 SK	2009 CZ	2010 CZ	2011 CZ
Waste	71	49	80	64	69	80	80	80	75	79
Cemeteries	42	27	26	12	16	13	13			
Public green areas	45	16	24	18	33	14	6			
Communications	31	21	38	41	45	38	55			
Public lighting	23	30	60	35	40	39	38			

Source: Authors according to Merickova et al., 2010 and Soukopová, Malý, 2013

The results of our efficiency benchmark are presented in Table 4, which compares unit costs of internal provision with external contracted services. Using the costs of internal services as the base (= 100), the index scores are constructed by taking the ratio of costs for external contracted services to costs for internal services (measured per inhabitant per year). Simple data from Table 4, but also more sophisticated multidimensional analysis (see e.g. Merickova et al., 2010) clearly show that despite some methodological problems, our hypothesis cannot be confirmed. Data suggest that externalization of production (contracting out) generally delivers neither improved efficiency nor better quality compared to internalized production (direct provision of public goods and services by governments).

Table 4: Efficiency of Contracting Out Local Waste Management Services (cost minimisation method)

Slovakia						Czech Republic					
2001	2005	2006	2008	2009	2010	2004	2007	2008	2009	2010	2011
94	94	125	184	100	138	137	136	89	113	115	116

Source: authors according to Merickova et al., 2010 and Soukopová, Malý, 2013

Although the data generally support the case for internalization, they also reveal examples of effective contracting, thereby indicating the potential value of contracting if it is properly implemented.

Table 5: Methods of Selecting External Suppliers in Slovakia (%)

Procurement method used	2001	2005	2006	2008	2009
Open procedure	16	17	27	32	17
Restricted procedure	5	0	5	3	14
Negotiated procedure	0	13	30	0	7
Price bid	0	0	0	25	4
Direct purchase	31	17	38	30	11
Municipality was not willing to provide information	48	55	–	25	66

Source: Merickova et al., 2010

3. Competition and Its Impact on Waste Cost (Czech Republic)

The theory indicates that competition plays a crucial role in the provision of public services at the local level. As many authors have stated (e.g. Warner, Bel, 2008; Bel, Fageda, Warner, 2010; Bel, Fageda, 2011), there is strong evidence that competition is one of the most significant factors influencing the efficiency and the cost of service delivery. Furthermore,

competition prevents the exploitation of the dominance on the market, has an innovative potential (Hefetz, Warner, 2007), and represents the important background for benchmarking of the service prices and quality between municipalities. Thus, the lack of competition: a) diminishes the pressure on the efficient service provision, and b) increases the pressure on public expenditures.

There are more reasons why the competition for external delivery of waste management services can be limited. The obvious one is the limited supply. However, we argue that in our concrete conditions there are a sufficient number of potential suppliers for most areas. The second potential problem is limited competition because of the fact that competitive tendering is avoided by municipalities (despite being required by the Public Procurement Law) – Table 5 shows that competitive contracting is not used as a regular selection method. The focus of our research in this subchapter is the third possible barrier – unfair competition.

In 2012, the Czech “Office for the Protection of Competition” (Antitrust Office) confirmed that there are strong distortions of the competitive environment in the area of waste management in the Czech Republic. By its first-instance decision, the Office has imposed a fine amounting to CZK 96,579 million (approximately € 3,825,000) on four waste companies. The office stated that “These companies entered into prohibited agreements on market sharing that led to the distortion of competition – cartel” (UOHS, 2012).

Specific data for this part have been obtained from the Ministry of Finance of the Czech Republic (MF CR) automated budget systems ARIS and ÚFIS, data about population from the Czech Statistical Office, and data about competitive environment have been obtained via an electronic questionnaire-based survey.

Methodology. Expenditures per capita have been used for the comparison of individual municipalities. Acquired data are from the period 2008–2012. We present the results of the analysis in the South Moravian Region and the Pardubice Region because we have obtained data from all of the municipalities in these two regions only (673 municipalities of the South Moravian Region and 451 municipalities of Pardubice Region). The hypothesis for this part is that impacts of the unfair competition (cartel) distort the results from outsourcing waste management services.

The map of waste management companies' coverage in the South Moravian Region and the Pardubice region has been used for examining the influence of competitive environment.

Theory of groups has been used. Individual municipalities have been sorted according to whether they have a neighbour municipality with different waste management company contracted than the municipality itself. Five groups of municipalities with different number of competing companies (0-4) have been created and descriptive statistics of these five groups have been compared. The municipalities in which the four “cartel” companies operated have been separated from other municipalities.

We have not used correlation and regression analysis because the results of basic statistical analysis were sufficient. By analysing average expenditure per capita, we have found out that mean value and median value are the lowest among municipalities with no competitive environment. These values are extremely different, as standard deviation shows. The most extreme value is standard deviation for the group of municipalities with three competing waste management companies and mean value for a municipality with five competing waste management companies. The municipalities with extremely different values have been removed from the analysis (86 municipalities in the South Moravian Region and 82 municipalities in the Pardubice Region).

Results. Results of the analysis adjusted for extreme values are shown in Table 6 (level of competition) and especially in Table 7 (impact of competition on costs) and confirm our assumption about negative impact of cartel agreements on the waste management costs.

Table 6: Results of the Analysis of Competitive Environment Influence on Average Expenditure Per Capita from 2008 to 2012 in the South Moravian Region

Character of competition	Number of municipalities	Mean	Median	Standard deviation
No competing WM company*	167	475.88	446.46	42.42
1 competing WM company	231	550.97	521.65	44.83
2 competing WM companies	143	532.28	517.15	45.30
3 competing WM companies	39	507.56	506.16	40.79
4 competing WM companies	7	517.67	516.84	53.58
South Moravian Region	587	522.97	494.94	44.72

Source: Authors

The results show that fewer positive values arise among municipalities with high-level environment competitiveness (like the case of 3 competing companies among neighbour municipalities in the South Moravian Region).

Table 7: Results of the Analysis of Competitive Environment Influence on Average Expenditure Per Capita from 2008 to 2012 in the Pardubice Region

Character of competition	Number of municipalities	Mean	Median	Standard deviation
No competing WM company	96	586.50	567.20	63.70
1 competing WM company	147	636.85	603.27	61.89
2 competing WM companies	97	632.16	599.01	62.38
3 competing WM companies	25	635.92	620.67	56.99
4 competing WM companies	4	529.82	526.46	56.09
Pardubice Region	369	634.30	598.20	60.78

Source: Authors

This indicates that our hypothesis can be confirmed: the impact of the unfair competition (cartel) distorts the results of the analysis, as it is even evident from Table 8.

Table 8: Results of the Analysis of Competitive Environment Influence on Average Expenditure Per Capita from 2008 to 2012 According to the Cartel

Character of competition	South Moravian Region		Pardubice Region	
	Mean Cartel	Mean	Mean Cartel	Mean
No competing WM company	499.83	452.34	599.45	565.33
1 competing WM company	598.33	534.17		636.85
2 competing WM companies	541.12	521.76	645.45	613.16
3 competing WM companies		507.56		635.92
4 competing WM companies	517.67			529.82

Source: authors

4. Economies of Scale (Czech Republic)

Economies of scale are a standard topic of the economic theory, frequently used for the analysis of monopolies (Stiglitz, 1988), for example. They are also the most frequently discussed economic problem, which is associated with the problem of decentralization / amalgamation of local governments. Economies of scale exist in the private sector when a firm that optimizes its production costs in the face of some fixed costs enjoys lower per unit production costs as the production grows. From a production point of view, municipalities can be seen as production units where the production function and economies of scale are the decisive factors (Houlberg, 2010: 311). The municipalities have to be large enough to minimize average costs and there must be forces working to ensure efficient exploitation of these factors.

There is an assumption that the fixed costs are higher in more capital-intensive production. Thus, economies of scale are likely to be found in capital-intensive municipal services (road maintenance, waste management) and not so often in personnel-intensive production (Dollery, Fleming, 2006: 278).

From the point of view of the implemented research (e.g. Hirsch, 1965; Stevens, 1978; McDavid, 1985; Dubin, Navaro, 1988; Domberger, Jensen, 1997; Bel, Warner, 2008; Bel et al., 2010; Parthan et al., 2012) the theory holds true that the larger the serviced area, the higher optimization of the whole waste management system can be achieved by the operators of refuse management services, including the full utilization of the capacities at facilities that utilize and dispose of waste. Consequently, unit costs of the system decrease and the load on municipal budgets is lower. However, after a certain level of production, dis-economies of scale may begin to emerge and unit costs rise. Thus, marginal costs are larger than average cost. Therefore, the theory presents U-shaped average cost of production.

Methodology. To analyse the situation we decided to use per capita expenditure data from the Czech Republic. The research has used data collected for the five-year period from 2008 to 2012. The analysis has been based on a sample of 1,300 municipalities in the Czech Republic, reflecting the general structure of municipalities in the Czech Republic by the number of inhabitants.

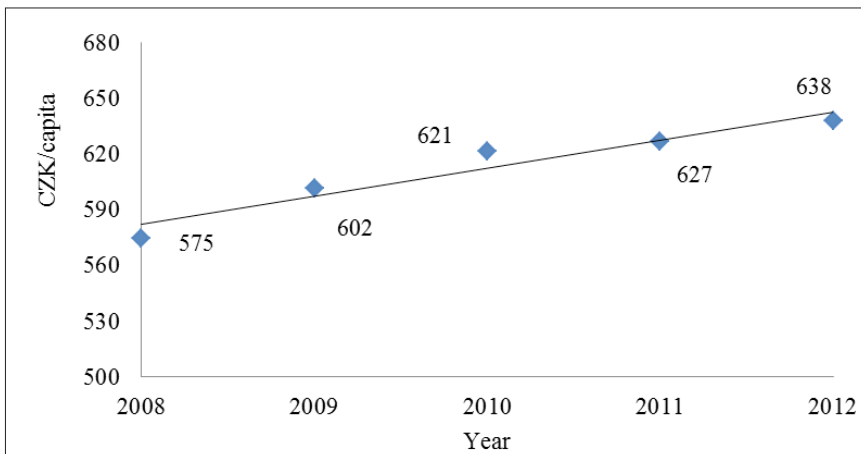
The goal of this part is to establish whether the economies of scale exist for waste management services in the concrete Czech environment.

The methodology tools used for the analysis have been the theory of sets and cluster analysis that we applied to classify the municipalities into

groups (sets) by population size. First, we used the tools of descriptive statistics, comparing the data on the average expenditure per capita, the standard deviation of expenditure per capita, and the variation coefficient for the resulting five sets of municipalities with the set of data for the whole adjusted sample of municipalities in the Czech Republic. We then applied hierarchical cluster analysis and performed decomposition into groups, selecting the number of inhabitants (the population size of municipalities) and population density as the basic variables for the cluster analysis algorithm. It was necessary to purge data from significant deviations before testing the expenditure per capita. The municipalities with expenditures per capita achieving extreme values and thus distorting the analysis were removed from the subsequent analyses and sets. This reduced the sample to 1,236 municipalities.

Results. According to our data, the total waste management expenditures of municipalities in the Czech Republic account for more than 4 per cent of their total current expenditures. It is nearly 6 per cent of the total expenditures of the municipalities with fewer than 500 inhabitants. Although the growth slowed down after 2010, due to the financial and economic crises and the necessity to reduce costs, it is apparent that these expenditures have been increasing again since 2011 (Figure 1).

Figure 1: The Average MSWE Per Capita per Year in the Czech Republic



Source: Authors

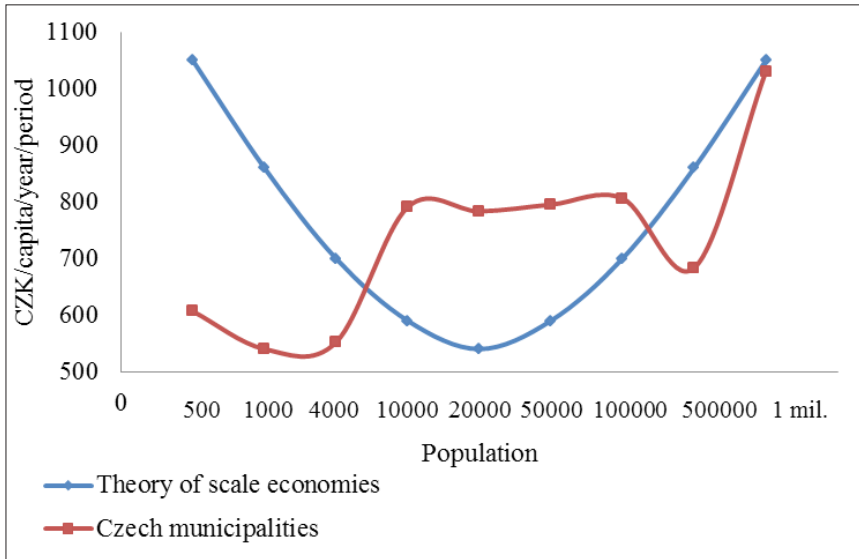
Table 9 shows the descriptive statistics of the municipalities divided into nine groups according to the splitting of the Czech Statistical Office with regard to population size and their waste management expenditures per capita in the period 2008–2012. The average expenditures related to the municipal waste management operations in the Czech Republic were 612.58 ± 195.15 CZK/capita for the period 2008–2012, with municipalities with fewer than 4,000 inhabitants achieving lower average expenditures. It is apparent that the distribution of expenditures by population size is not in full accordance with the theory of economies of scale (Figure 2).

Table 9: Descriptive Statistics of the Groups for the 2008–2012 Period

Population size	Sample size	Mean	Standard deviation	Min	Max
fewer than 500	564	606.80	190.39	96.27	1,703.10
501 ... 1,000	259	540.06	126.79	159.19	1,221.01
1,001 ... 4,000	215	551.94	154.52	71.39	1,451.38
4,001 ... 10,000	81	790.66	197.69	207.14	1,416.61
10,001 ... 20,000	56	783.28	222.09	128.41	1,373.74
20,000 ... 50,000	40	795.08	237.86	112.39	1,287.09
50,001 ... 100,000	16	805.95	160.70	223.98	1,599.82
100,001 ... 500,000	4	683.44	238.24	303.81	953.39
more than 1 million	1	1,030.68			
Total	1,236	612.58	195.15	67.17	1,738.47

Source: Authors

Figure 2: The Average MSWE Per Capita for the 2008–2012 Period without Extreme Values



Source: Authors

Although the municipalities with populations under 4,000 partially confirm the existence of economies of scale, the chart shows that the average expenditures of municipalities in the population size category from 4,000 to 100,000 are nearly invariable, which is not in accordance with the U-shaped curve. It could be a statistical discrepancy. Nevertheless, the studied sample accounts for nearly 60 per cent of municipalities in this size category in the Czech Republic and the outcomes are therefore relevant. Cities with more than 100,000 inhabitants, including Liberec, Plzen, Ostrava, and Brno, show a significant deviation from the economies of scale. This may be because Plzen has average expenditures slightly over 300 CZK per capita (Table 10).

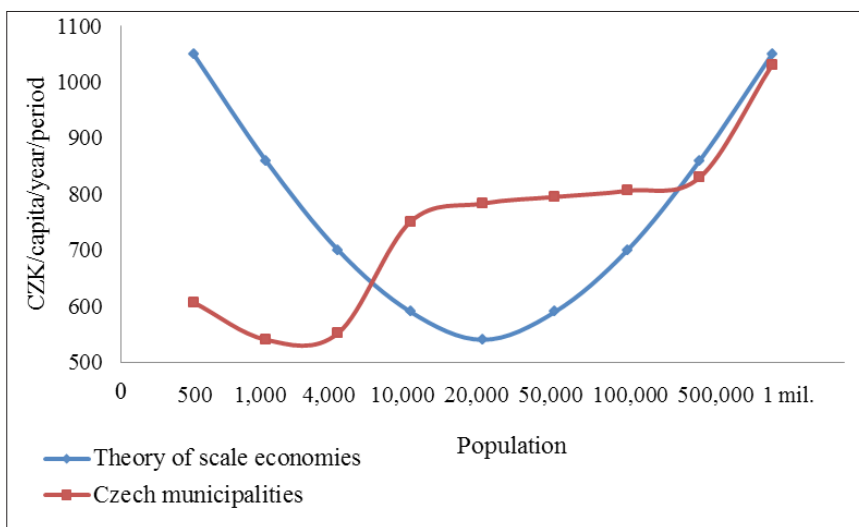
Table 10: The Municipal Solid Waste Expenditures Per Capita

City	Population	Municipal solid waste expenditures per capita [CZK/capita]				
		2008	2009	2010	2011	2012
Liberec	102,113	735.79	773.26	789.59	790.82	826.48
Plzen	167,472	197.07	284.22	338.67	354.29	344.80
Ostrava	297,421	663.84	691.56	686.17	724.04	701.17
Brno	378,327	1,001.16	1,144.81	915.72	861.42	843.85

Source: Authors

If we exclude Plzen from the analysis, the previous Figure 2 would be slightly different (Figure 3)

Figure 3: The Average MSWE Per Capita for the 2008–2012 Period without Extreme Values (without Pilsen)



Source: Authors

Although Figure 3 partially confirms the existence of economies of scale, the data show that the average expenditures of municipalities in the pop-

ulation size category from 4,000 to 100,000 (without extreme values – we have excluded Plzen with average expenditures slightly over 300 CZK per capita from this calculation) are nearly invariable: This is not in accordance with the U-shaped curve. Because the research sample is fully significant, we need to admit that classic economies of scale are not visible in the area of the Czech waste management (U-shaped curve of the economies of scale is “valid” only for municipalities with populations under 4,000). Surprisingly, the results suggest that in terms of the average waste management expenses, the optimal population of a small municipality is 1,000 to 2,000 – such findings do not correspond to the outcomes of foreign studies. For example, Dubin and Navarro (1988) established economies of scale in municipalities with populations under 20,000, or Stevens (1977) established economies of scale in municipalities with populations over 50,000. This issue will be subject of our further research (at this moment we have one possible explanation – lower quality of the service in small units that needs to be further investigated, confirmed or refused).

5. Conclusion

The paper provides data from our long-term research on municipal waste management in the Czech Republic and Slovakia. Three issues are the core focus – scale and results from contracting out, impact of competition of costs (the relationship between the unfair competition and municipal waste cost in the Czech Republic), and economies of scale in the Czech Republic.

From the point of view of the form of waste management service provision, data collected for over a decade do not show any relationship or trend. Despite the methodological problems, especially the limited reliability of data provided by municipalities, our research has confirmed a standard assumption of economic theory: there is not an optimum provision for local public services that should be copied from one municipality or state to the other(s). Decisions about the best form of local service provision should respect local conditions, not a universal pattern.

Data from Slovakia and the Czech Republic indicate that lack of competition is one of the core factors of limited results obtained by contracting. The specific data from the South Moravian Region and the Pardubice Region have shown that results of competitive environment analysis could be affected by the existence of cartel.

The results from the analysis of the economies of scale in waste management in the Czech Republic are really interesting. Surprisingly, in the Czech Republic the bottom of the cost curve is to be found at about 2,000 inhabitants. Moreover, the cost curve in the Czech Republic is not a classic U-shaped curve. The U-shaped curve appears only for small municipalities, and disappears for larger settlements.

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ECONOMIC ASPECTS OF THE MUNICIPAL
WASTE MANAGEMENT:
CZECH REPUBLIC AND SLOVAKIA

Summary

This paper provides data from our long-term research about municipal waste management in the Czech Republic and Slovakia. Three issues are covered – scale and results from contracting out, impact of competition of costs (the relationship between the unfair competition and municipal waste cost in the Czech Republic), and economies of scale in the Czech Republic. From the point of view of forms of waste management service, despite the methodological problems, the research does not confirm priority of contracting out and suggests that the decisions about the best form of local service provision should respect local conditions and not any universal pattern. The authors also show that lack of competition is one of the main causes of the limited results obtained by contracting. The specific data from the South Moravian Region and the Pardubice Region have shown that results of competitive environment analysis could be affected by the existence of cartel. The results of the analysis of the economies of scale in waste management in the Czech Republic indicate that the bottom of the cost curve is to be found at about 2,000 inhabitants. Moreover, the cost curve in the Czech Republic is not a classic U-shaped curve. The U-shaped curve appears only for small municipalities, and disappears for larger settlements.

Keywords: waste management, municipalities, Czech Republic, Slovakia, efficiency, competition, economies of scale, contracting out

EKONOMSKI ASPEKTI LOKALNOG
UPRAVLJANJA OTPADOM:
ČEŠKA REPUBLIKA I SLOVAČKA

Sažetak

U radu se prezentiraju podaci dugoročnog istraživanja lokalnog upravljanja otpadom u Češkoj Republici i Slovačkoj. Tri su pitanja u žarištu interesa: raširenost i rezultati vanjskog ugovaranja (contracting out), učinci natjecanja na troškove (odnos između nepoštenog natjecanja i troškova lokalnog otpada u Češkoj Republici) te ekonomija razmjera u Češkoj Republici. S gledišta oblika zbrinjavanja otpada, usprkos određenim metodološkim problemima, naše istraživanje ne potvrđuje da je vanjsko ugovaranje najbolje rješenje, već sugerira da odluka o obliku pružanja te lokalne usluge treba uvažiti lokalne uvjete a ne neko univerzalno rješenje. Također smo pokazali da je jedan od glavnih faktora koji dovode do ograničenih rezultata vanjskog ugovaranja – manjkavost tržišnog natjecanja. Podaci iz dviju regija, Južne Moravske i Pardubica, pokazuju da rezultati analize natjecateljskog okruženja mogu biti iskrivljeni zbog postojanja kartela. Rezultati analize ekonomije razmjera u upravljanju otpadom u Češkoj Republici pokazuju da je donja točka krivulje troškova već na razini 2.000 stanovnika. Štoviše, krivulja troškova u Češkoj Republici nije klasičnog U-oblika. Krivulja U-oblika pojavljuje se jedino kod malih jedinica, dok kod većih nestaje.

Ključne riječi: upravljanje otpadom, lokalna samouprava, Češka Republika, Slovačka, efikasnost, tržišno natjecanje, ekonomija razmjera, vanjsko ugovaranje

Stealthy, Covert and Uninvited? Commission's "Activism" in the Implementation Convergence of Social Services of General Interest in the European Union

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The broad aspirations of social policy in the European Union continue to be the preserve of the Member States as the particular histories, ideas, and institutions upon which national social policies are based remain quite heterogeneous. A process of convergence is nevertheless discernible in respect of policy implementation. The reasons for this relate to the nature of the European integration pro-

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cess but should not be confused with the broad adoption of a notional European Social Model, the harmonisation of national policies or, more generally, with the classical approach to EU policy making in the social field. This paper instead explores how the implementation typology on Social Services of General Interest produced by Humer et al. (2013) can be understood in relation to the way in which the European Commission has continued to act as a “purposeful opportunist” by employing “policy entrepreneurship” in the context of the various ‘new governance’ approaches associated with EU social policy.

Key words: services of general interest, social services of general interest, social services

1. Introduction

Although it was little more than a footnote in the Treaty of Rome of 1957, Services of General Interest (SGI)¹ is now a key EU policy area.² Indeed, SGI, and Social Services of General Interest (SSGI), its social sub-category, have attained a level of recognition at the EU level that remains puzzling. Unlike SGI and Services of General Economic Interest (SGEI) however, SSGI currently supports no legally binding definition (Szyszczak, 2013: 317) – there is no Treaty basis for SSGI and the Member States (MSs) cannot agree on its boundaries (Bauby, 2013: 50-51; van de Gronden, 2011: 150–151). It can however be viewed as a useful device for the Commission of the European Union (CEU), acting as a “purposeful opportunist” in its attempt to shape the policy process, as ambiguity

¹ While the notion of Services of General Economic Interest (SGEI) was contained in Article 86 of the Rome Treaty, 25 March 1957, the broader notion of Services of General Interest (SGI) was only developed in relation to the Treaty of Amsterdam, 2 October 1997, while the term Social Services of General Interest (SSGI) only emerged in the Presidency Conclusions of the Laeken European Council meeting 14–15 December 2001.

² This work draws on the findings of previous contributions focusing on the EU as a regulatory state, using “stealthy” (Majone, 2009) “covert” (Genschel, Jachtenfuchs et al., 2014) and “uninvited” (Greer, 2006) methods to further its preferred policy goals often in opposition, though rarely directly so, to the stated interests of some member states. The authors are grateful for constructive comments from Prof. Hellmut Wollman, Prof. Gerard Marcou and Dr. Alois Humer as well as from the two anonymous reviewers of the journal on a previous version of this paper.

often protects the CEU's preferred policy alternative from outright MSs opposition. The notion of "purposeful opportunism" refers to organisational activity which displays inherently flexible methods in the pursuit of set overall objectives and/or goals.³

In broad terms, SSGI are seen as measures addressing risk and vulnerabilities in life (EC, 2007: 7–8), which facilitate social inclusion and the safeguarding of fundamental rights (EC, 2010: 16–17). The notion of SSGI has, in part, been used by the CEU as one of a number of tools and/or strategies designed to "shape" the policy making environment in the EU Social Policy field – a field in which EU institutions ostensibly have only limited powers *vis-a-vis* the MSs (Bauby, 2011: 34–35). Similarly, the focus on "implementation" (in relation to low level day-to-day politics) rather than on the often rarefied arena of policy making as inter-state bargaining provides another mechanism through which the CEU is able to exert broader "policy goal" influence (see for instance, Cram, 1997: 61–97).

This paper seeks to provide an explanatory framework for the results produced by the Humer et al. (2013: 150–154) dataset. The initial point focussed on understanding how much "convergence" was occurring in terms of SSGI implementation. The second step sought to problematize the typology results by questioning why, in a context where institutional MSs' dominance prevails in the broad EU social policy field, "implementation convergence" in terms of SSGI nevertheless occurs. The third step identifies a suitable theoretical approach to understanding the mechanisms involved while the fourth step attempts to confirm its appropriateness.

Section one draws a distinction between the underlying assumptions of traditional social policy typologies and the Humer et al. (2013) approach, turning the focus away from "ideal" types and the policy-making level to consider instead "real" types and policy implementation. While the dataset itself is not a time series and thus only shows a "snapshot" of what

³ See Cram (1997) and originally Klein and O'Higgins (1985). The CEU is able to do this through its power to shape agendas and frame policy developments, packaging *its* policies and selecting the way in which they will be presented in the least conflicting manner possible. With the limited resources available to it, it also seeks to mobilise or create its own constituency of support through the sponsoring and promotion of research and learning functions while preparing the field for future action – seed funding, soft law measures etc. Action is always rationalised in accordance with topical situations while continual low-key attempts are made to stretch the current legal basis for action. Finally, strategic learning and flexibility are key as events are allowed to run their course in the expectation that new policy windows of opportunity will present themselves. Adept, flexible, and goal-oriented, the CEU plays the "long" game.

may be occurring, historical and institutional analysis is used to “fill the gaps” and therefore supplements the overall picture provided. The results suggest that the traditional welfare clusters – when viewed through an implementation prism – are becoming less distinct. Moreover, they are attracting the NMS into their orbits and consequently, no new “Post-Communist” cluster is discernible. Therefore, there is a convergence of sorts taking place.

Section two situates these findings within a historical and institutional EU context – specifically in relation to the development of EU social policy competences and debates. The notion of social policy is used here as a framework within which to discuss SSGI. This is necessary because of SSGI’s lack of legal standing in the EU framework. It is however important to take account of the broader EU debate on “services”/SGI and the fraught definitional relationship between SGI/SSGI.⁴ This is manifested particularly strongly when discussing the clash between EU Competition Law, where the various mechanisms of the internal market are seen as the driving force of integration and, as such, given primacy over national law, and historic and continuing MS dominance in the social policy field limiting the utility of further harmonisation measures via the traditional “Community Method”. If integration is unable to occur in the traditional way, and convergence seems to be occurring nevertheless, how can this be explained?

Section three is tasked with outlining a suitable theoretical framework to situate the questions arising from sections one and two. The broad framework chosen was that of historical institutionalism (Steinmo, 2010; Hall, Taylor, 1996; Stone et al., 2001; Pierson, 2004). This was preferred over traditional state-centric Integration Theory approaches and specifically over the Liberal Intergovernmentalism of Moravcsik (1998) primarily because of the way in which “institutions” are viewed by each approach – as potentially active or passive structures.

Following Knill (2001: 4–5) a second layer of analysis is also included to deal with the traditionally perceived deterministic and conservative bias within HI as an explanatory approach. As such, the notion of “agency” is operationalized with reference to the CEU’s “purposeful opportunism” and its ongoing role as a “policy entrepreneur”.⁵

⁴ The work of Neergaard (2009: 20; 2013: 210) provides a useful overview of how the different sub-categories of SGI are related to each other while Hatzopoulos (2010: 42–47) and Szyszczak (2013: 318–20) also provide useful summaries.

⁵ Radaelli and Dunlop (2013: 935) also point to the possible fruitful combination of HI and PO.

Referencing the secondary literature, the fourth section confirms support for the notion of CEU's "purposeful opportunism" and policy entrepreneurship in respect of SSGI implementation. This is followed by a brief concluding section.

While the notion of an emerging European welfare state coalescing around the outputs of European social policy and informed by reference to the "European Social Model", has been extensively discussed (Adnett, Hardy, 2005; Kleinman, 2002; Cousins, 2005; Ferrera, 2005; Hay, Wincott, 2012; Taylor-Gooby, 2004), the "institutionalisation" of SSGI, particularly in relation to service implementation, is a subject that has not received much attention. Similarly, while the legal literature on SGI/SSGI is already voluminous, little attempt is made therein to conceptualise the "motivations" of the institutions involved. This paper intends to address these gaps in the literature and extols their virtue as much neglected central pieces in the EU social landscape.

2. A Typology of SSGI Implementation

The typology produced by Humer et al. (2013: 156) sought to investigate two perceived gaps in comparative European welfare research. First, the paucity of investigation into process as opposed to outcomes or ideals; specifically, welfare services and their modes of production, financing, organisation, and delivery. A real-type analysis, which focuses on the implementation⁶ of welfare, will produce a different result to that of an ideal-type analysis, focusing on policy formulation and theoretical policy visions.

The second identified gap focuses on the limited availability of data on welfare regimes beyond the "traditional" EU15/EFTA research area, suggesting a lack of comprehensiveness, and a reliance on selective case studies rather than a comprehensive approach. In the extended version

⁶ A different approach here would have been to focus on the notion of "street level bureaucrats" (Lipsky, 1980) which suggests that the way in which public policy is implemented and administered is the primary factor in its success. Implementation then is not just a technical matter but is primarily constitutive of how the policy in question is produced, received, and understood. Our focus on institutions, namely the CEU, is congruent with this approach. Though obviously pitched at a different scale it nevertheless shares a discourse centred around the impact of concepts such as "governance", New Public Management (NPM), and neo-liberalism.

of Esping-Anderson's typology, presented by Ebbinghaus (2012: 14) for instance, Poland, Hungary, the Czech Republic, and Slovakia are the only NMS included, together with Germany and Austria.

Humer et al. (2013: 161–162) chose to operationalize the implementation of SSGI in terms of process – the provision of services (in a spatial context). The typology addresses policy modes and territorial organisation for SSGI encompassing 31 European countries (Table 1) with the focus on *implementation* – not policy formulation. This typology focused on *real-type* social phenomena rather than Weberian *ideal types*. A database was created by means of primary data collection. National experts in the 31 studied countries were consulted on (sub-) national organisational matters in respect to nine key welfare services related to education, health and care, labour market policy, social housing and social transfer schemes.

The level of service organisation was expressed in relation to four attributes – two social and two territorial. From a socio-political perspective, the production and financing modes of a certain welfare service provided the primary focus of attention. The experts had to decide whether a particular service was provided and/or financed by state institutions, market mechanisms, or civic/familial engagement. From a territorial perspective, the responsible governance level and the degree of involvement in service provision by the spatial planning agenda, broadly defined, were the main attributes. The experts identified whether service responsibility was located at the national, regional, or local government level or – where no state responsibility existed – at the “individual level”. The level of influence of spatial planning programmes and instruments on service provision illustrates whether service delivery is, in effect, territorially organised. In some cases, planning policies are explicit in designating locations or routes for service provision, while in others they impact on service provision only implicitly. Some countries simply do not address service provision matters in their planning instruments. Moreover, the character of a service, for example, social transfer schemes, often makes it unnecessary *a priori* to tackle with territorial policies.

The collected expert data was sorted by means of a quantitative multivariate method of cluster analysis focusing on the “furthest neighbour” approach. The analysis for the abovementioned 31 European states resulted in a typology consisting of three grand types comprising two to four types. The decision to divide the European states into types and grand types is statistically supported by what is termed the “elbow-criteria” (Ketchen, Shook, 1996).

Given that Belgium and the Netherlands cluster very late, we consider them outliers and will not discuss them further at this time. The problems associated with classifying the Netherlands and its welfare system have, for instance, been identified in previous research (Esping-Andersen, 1990, 1999; Hicks, Kenworthy, 2003). Table 1 shows the division of European states into several clusters and their characteristics.

Table 1: Types of Welfare Service Organisation in Europe

Political-territorial typology of SSGI organisation							
Types		Tendency regarding social welfare aspects		Tendency regarding administration and planning		Grand types	
		Production "P"	Financing "F"	Level of responsibility "R"	Territorial organisation "T"		
11	HR, LU, PT, SI	fragmentation		national	implicit	1	hands-off/ passive
12	ES, IT	fragmentation		regional	implicit		
13	CY, MT	mainly public		national	implicit		
14	BE	non profit		regional	explicit		
21	DK, LV, NO, RO, SE, SK	mainly public		local	explicit	2	hands-on/ active
22	BG, CZ, EE, FI, IS	mainly public		national & local	implicit		
23	AT, CH, DE, FR, LT, PL, UK	mainly public		regional & local	explicit		
31	GR, HU, IE	mainly public		national	explicit	3	all-or-none/ ambivalent
32	NL	private influence		national or none	explicit		

Source: Modified from Humer et al., 2013

The first type contains eight countries⁷ and is characterised by an implicit territorial organisation in respect of SSGI. In the smaller countries, responsibility for SSGI is located at the national level while in the larger countries it generally lies at the regional level. Effectively, this means that

⁷ Croatia, Luxembourg, Portugal, Slovenia, Spain, Italy, Cyprus, and Malta.

the controlling administrative unit is, in population terms, rather similar. With the exception of Cyprus and Malta, the production and financing of SSGI is “fragmented”, i.e. there is no logic or system in the production and financing. In Cyprus and Malta, responsibility for production and financing remains public, probably for reasons of scale. A second type contains only three countries (Greece, Hungary, and Ireland) and is characterised by the explicitly territorial organisation of SSGI. Here the national level exercises responsibility for SSGI delivery with production and financing being public. The final type contains the remaining 17 countries⁸ and is characterised by the strong territorial organisation of SSGI. Responsibility is located at the *local* level with both the production and financing of SSGI being predominantly public.

Eight of the thirteen New Member States have adopted a similar approach to that of the grand cluster; Hungary is the only NMS in the smallest cluster while four NMS (Croatia, Slovenia, Malta, and Cyprus) show similarities to the “Mediterranean” cluster. This is not, however, to suggest that convergence at the policy formulation level has taken place in the analysed countries.

Although Ebbinghaus (2012) focused on ideal-types while Humer et al. (2013) focused on real-types, with the exception of Hungary, the expectation that the four NMS he discusses would gravitate towards Germany and Austria appears to have been confirmed. Interestingly, Draxler and Van Vliet (2010: 19) argued that the NMS show no signs of convergence to the west. Their study however focuses on policy formulation and ideal-types while their analysis relates only to the period 2000-06. It is perhaps optimistic to assume policy formulation will change radically after such a short period as institutional inertia will inevitably slow the process. Contrary to Draxler and Van Vliet, the results uncovered by Humer et al., indicate that “something” has happened in relation to SSGI implementation.

The countries in the grand type 1 are, with the exception of Spain and Italy, small (Croatia, Slovenia, Luxembourg, Cyprus and Malta) to medium-sized (Portugal) geographically. The territorial organisation of welfare services is implicit in all the countries in this grand type 1, i.e. welfare services are only loosely or indirectly tied to a certain territory or

⁸ Denmark, Latvia, Norway, Romania, Sweden, Slovakia, Bulgaria, Czech Republic, Estonia, Finland, Iceland, Austria, Switzerland, Germany, France, Lithuania, Poland and the United Kingdom.

geographical unit. At first glance, the level of administrative and planning responsibility for welfare appears heterogeneous. This needs some clarification.

In Cyprus, Malta, Croatia, Luxembourg, Slovenia and Portugal, all relatively small countries in population terms and geographically, responsibility remains at the national level. In Spain and Italy responsibility lies with the relatively autonomous and, in some cases, independent regions. The size, population-wise and geographically, of e.g. Navarra or Trentino-Alto-Adige is about the same as Croatia or Slovenia. Thus while the level of administrative and planning responsibility for welfare here is heterogeneous *de jure* this is not necessarily the case *de facto*. In Spain, Italy, Croatia, Luxembourg, Slovenia, and Portugal, the level of private influence in the production and financing of social welfare is marked. For the two smallest countries, Malta and Cyprus, production and financing is mainly through public sector institutions. One plausible explanation for this may be the desire for economies of scale.

The 17 countries in grand type 2 come from across Europe. The financing and production of welfare services in these countries is mainly undertaken through public financing. The local level generally plays a key role here and exercises administrative and planning responsibility for social welfare. With the exception of Bulgaria, the Czech Republic, Estonia, Finland, and Iceland, welfare services are explicitly tied to a certain territory or geographical unit. In those countries where this is not the case, welfare services are loosely or indirectly tied to a certain territory or geographical unit.

Grand type 3 contains three countries: Greece, Hungary, and Ireland. Here, welfare services are explicitly tied to a certain territory or geographical unit and the national level has administrative and planning responsibility for social welfare. The financing and production of welfare services is undertaken mainly through the public purse in Greece, Hungary, and Ireland.

At first glance, it appears reasonable that Greece, Hungary, and Ireland have clustered. All three are “over-centralised” (Tsekos, Triantafyllopoulou, 2015: 22; Horváth, 2015: 11; The Irish Times, 2015). However, the socio-economic problems in Greece, Hungary and Ireland, exacerbated by the financial collapse of 2008, are numerous and multifaceted. It is clear that these countries are effectively experiencing an economic transition process that has been interrupted. Thus, they are now waiting in a “half-way-house” between welfare regimes (Hay, Wincott, 2012: 156–

157; Matsaganis, 2011: 510; Strathopoulos, 1996: 136–137; Ferge, Tausz, 2002: 180; Horváth, 2015: 17–19). Clearly, this has also manifested itself in terms of their implementation of SSGI.

Although the “Mediterranean” cluster appears disparate, the discussion here has shown that from an *implementation* perspective these countries have many commonalities. While the smallest cluster, containing Greece, Hungary, and Ireland, initially appears rather odd, the discussion has shown that these countries also have – from an implementation perspective – many commonalities. Furthermore, the big cluster, including countries from all but the Mediterranean part of Europe, has many commonalities implementation wise. It thus appears that the SSGI implementation typology by Humer et al. (2013) is robust and reasonable.

3. Social Policy and the EU

As noted previously, SGI has moved from anonymity to centre stage in the EU’s legal and political debate (Neergaard, 2009: 17) even though the broad notion remains routed primarily in EU Commission’s “soft law” documents.

The basis of the legal settlement between the MSs and the supranational institutions is that the economic constitution of the treaties – primarily competition and internal market rules – only apply to *economic* activities, public services of a non-economic nature are thus not captured by these rules. This was meant to provide a clear demarcation between the MSs and the EU – with social policy clearly in the MSs realm with the EU economic rules set aside in the general (state level) interest. However, technological advances, regulatory experimentation, political pressure from the CEU and judicial engagement on the part of the European Court of Justice (ECJ) have all conspired to destabilise this original assumption particularly with respect to what qualifies as a non-economic service and where social policies such as healthcare fit into this ever-changing schema (Hatzopoulos, 2012: 38) leading Neergaard et al. (2013: 8) to note that “liberalisation has broken down or blurred traditional boundaries of the state provision of goods and services in the social sector”. Ongoing attempts at the national level to reduce public expenditure and powerful changes in Europe’s demographic patterns as well as shifts in consumer tastes in respect of public service provision have all combined to produce a situation where traditional approaches to welfare provision are seen as

increasingly under threat (Szyszczak, 2013: 320). It is in this context that the EU social policy and SSGI implementation must be viewed.

At the national level, social policy has historically functioned as an integrator effectively helping to cast European states in their current form, as such it is clearly constitutive of their national sovereignty. Indeed, Martinsen is unequivocal on this point, noting, “In its gradual development, welfare came to constitute a decisive means of national integration, where material rights and obligations linked the state and civil society together” (2013: 54; see also Ferrera, 2003, and Giddens, 1994). While similarities exist between national welfare institutions and philosophies and “family relationships” can be drawn, at root each is path-dependent, based on specific national histories, ideas and institutions. With national security and macroeconomic policy increasingly impacted by decisions and agreements (and/or social, political and economic forces) *beyond* the control of individual sovereigns, the desire to maintain control over welfare and re-distributional issues *within* individual states is clear and is fundamentally linked to the continuing political legitimacy of and democratic solidarity within national level structures – producing social citizenship – and the power to set rights and obligations and define *who* is to be protected. Moreover, it is clear that state-level welfare provision has expanded exponentially in the half century since the European integration process began (Ferrera, 2005: 171; Hay, Wincott, 2012: 99; Pestieau, 2006: 78–90).

The original six EU members intended welfare to be produced by economic growth not regulatory intervention. Thus, with exceptions relating to market-making measures such as Equal Pay and the removal of barriers to Labour Mobility, supranational competence in the social field was severely restricted as social policy was deemed to lie outside the economic constitution of the Treaty. While significant economic powers were ceded to supranational institutions, particularly in relation to the single market, in the social field the subsidiarity⁹ “formula” emerged, stipulating that competence to decide on the content, scope, and organisation of welfare policies remains within the realm of national competences – as long as the exercise of that competence does not contradict EU law.

With the “social space” colonised by the MSs and with economic and commercial policy the primary focus of integration, this formula proved a

⁹ Note however that, since the late 1990s, the meaning of the term has undergone a subtle change, from the notion that there is a clear dividing line between governance levels to one where there is a necessity for supple co-ordination across various levels of governance (see De La Porte, Pochet, 2003: 32).

workable compromise, but over time, with enlargement introducing new members with increasingly divergent welfare systems and philosophies and the CEU's desire to promote cohesion by promoting "a level playing field", the EU has effectively created a framework where the MSs are now *forced* to rationalise century-long practices, often dictated by ill-defined interests and regulatory capture (Hatzopoulos, 2012: 95).

However, the welfare systems of the original EU members did clearly converge initially. Between 1958 and the early 1970s, national social models in Western Europe shed many of their most obvious differences and a roughly similar model came to be accepted *as desirable*. Enlargement, the economic crises of the 1970s, and the "restructuring" that followed made direct harmonisation increasingly difficult as, at the national level, the functionalist consensus over welfare provision convergence in Western Europe was decisively broken by the disparate approaches taken to addressing the economic impact of the "oil shocks" of the mid to late 1970s (Hemerijck, 2013: 89), while within the EU, the impact of these massive structural economic changes brought to a decisive end, in the MSs' favour, the long running debate over the desirability of a supranationally "harmonised" system of social security (Hay, Wincott, 2012: 159–160). Convergence, meanwhile, had occurred across the EU in some areas but this was generally only at a synthetic level in terms of the recognition of the need for universal and comprehensive service coverage. At both the ideological and the service provision and delivery levels significant differences remained.

Nevertheless, once the basic asymmetry between economic and social integration was recognised, the EU found itself increasingly engaging in the social policy field, for instance, when the desire for economic and monetary integration led to the recognition that employment and social policy had to be addressed at the EU level. Indeed as Martinsen notes, "the market building process of the EU implies considerable social integration through the abolition of national barriers to the internal market. Free movement principles and Competition Law are thus fundamental challenges to the traditional logic of "closure" [of the social space] to the Member States" (2013: 67). As the Single Market was consolidated "social" questions (social dumping, exportability of benefits, etc.) inevitably re-emerged, not only in relation to the legal aspects of social externalities produced by economic integration but also on the political level as elites became aware of the political need to "bind" economic integration within an overarching social framework in order to maintain the legitimacy of the project. This inevitably challenged once again the notion of the national embedment of welfare policy.

Thus although it was widely acknowledged that the Single Market raised the issue of the need for EMU which itself made “Social Europe” both possible and necessary, the problem was how to achieve this within an EU social policy environment where the CEU did not have the right of initiative enabling it to control the policy process.

Beyond the constricted areas in which the CEU has a policy initiation role and the “negative integration” effects of the abolition of barriers under the internal market rubric, the EU can promote an integrative social policy in two ways; judicial policymaking through the ECJ and so-called “soft law” measures which came to be associated with the Open Method of Coordination (OMC) (Terpan, 2015: 72).¹⁰ As the former is beyond the current scope of this paper it is to the latter we now turn.¹¹

By the beginning of the 1990s, the Member States had faced something of a “double bind” (Ferrara, 2005; Hemerijck, 2013) in terms of dealing with social questions in an EU context. At the EU level, states were committed to the promotion of market integration which often significantly impacted traditional approaches to domestic level social intervention, while at the domestic level, they were severely constrained in terms of political legitimacy and support in the face of any curtailment of welfare provision across the policy spectrum from health care for the elderly to the quality of postal services.

The need for a recalibration of welfare systems across Europe, leading to welfare retrenchment, combined with the social policy impasse at the EU level was the driving force behind the adoption of the policy coordination

¹⁰ Policymaking through the ECJ is considered “hard law”, while the OMC is considered “soft law” Terpan (2015: 87–88) presents a useful overview of which EU policy areas can be considered to be governed by “hard” and “soft” law. Szyszczak (2013: 323–27) on the other hand, outlines a useful guide to the form and content of “soft law” in this context. In the European Studies literature, Wallace (2005: 79–89) provides an outline of the range of “governance methods” used in the EU context – Classical “community method”, EU regulatory mode (single market/competition policy), EU “distributional mode” (cohesion policy and structural funds), “Intensive transgovernmentalism” (immigration, asylum and security policy) and finally, “policy coordination” (soft law and OMC), while Büchs (2007: 4–6) notes that significant differences exist *within* the policy coordination sphere, both between the broad notion of “soft governance/soft law” and OMC and within the application of OMC itself in the various spheres in which it is (or has been) used, namely, monetary policy, employment, pensions and social exclusion.

¹¹ For a fuller discussion of the ECJ’s role in this process, see Greer (2006). Although his paper focuses on the ECJ and traditional neofunctionalism as a theoretical explanation rather than on the CEU and historical institutionalism, our conclusions on the impact of EU institutions on social policy are broadly similar.

logic behind the OMC. Both the CEU and the MSs sought to benefit from this new arrangement. The CEU was keen to address the negative perception that a neo-liberal EU was driving welfare retrenchment and thus sought to correct the perceived imbalance between negative and positive integration, while the MSs sought to confirm their preeminent position in social policy making, affirming their control of the process by noting that the harmonisation of so many diverse systems was impossible. In this context the adoption of the OMC made sense as convergence occurred around the position that OMC represented a “middle way” solution (Büchs, 2007: 11) to the “double bind” facing social policy in the EU. The MSs thought they had regained control of the process, while the CEU also saw opportunities to further its own agenda.

The CEU capitalised on this “window of opportunity” by adopting the notion that economic and social policy must be viewed as interdependent and that the EU had to be about more than just “markets and money” to succeed. Indeed on this point, and specifically in relation to SSGI, Szyszczak (2013: 320) notes that from here on, the CEU assumed a central role in driving forward the EU agenda on the modernisation of SSGI ensuring in the process their compatibility with EU law and policy, “Europeanising” SSGI by means of the tools associated with new governance and soft law. In order to placate the MS, the subsidiarity principle was reaffirmed, as was recognition that MSs’ diversity was a strength not a weakness. In concrete terms however, the Treaty of Amsterdam (1997) saw a new method of coordination developed, in relation to the launching of the European Employment Strategy (EES), based on the promotion of broadly formulated common social policy goals combined with iterative and mandatory learning. This strengthened the role of EU institutions in goal setting and benchmarking while decision-making, *stricto sensu* remained within the competence of the MSs.

By the time of the Lisbon Agenda in 2000 this informal “soft law” (Ferreira et al., 2003: 366) approach to policy coordination had been officially recognised as the OMC. In its ideal form the OMC approach begins with the Council of Ministers agreeing on a common set of objectives, including indicators and benchmarks, where appropriate, drafted by the CEU. Using this list of benchmarks and indicators the MSs then translate the CEU’s guidelines into domestic policies subsequently reporting their progress on both the policies implemented and those planned. The CEU then evaluates these efforts and identifies best practices formulating new recommendations for each MS. Peer review exercises involving the MSs as well as regional, municipal, and non-governmental actors provide the

opportunity for feedback into the further development of national policy feeding into the process of guideline reformation. The results are published in joint reports, which the Council must approve, with the MSs then expected to implement the policy (Versluis et al., 2011: 62).

In this context, the CEU's authoritative leading role is seemingly replaced by that of the MSs' representatives; the Council becomes the primary venue while the CEU effectively takes on the role of facilitator in terms of ideas, networks, etc. Policy made in this way is not legally binding, depending instead on the MSs refining and implementing the proposals, though the CEU is also tasked with monitoring the MSs' outputs (Ladrech, 2010: 30). However, what actually tends to happen is that the CEU acts as a "purposeful opportunist" or as a "policy entrepreneur" (Majone, 2009: 42) – a political subject willing and able to opportunistically exploit its own limited resources in order to drive forward the creation of new and desirable policies (Cram, 1997: 155) – structuring the decision agenda and engaging in "idea promotion". After Lisbon, this model was rolled out beyond the EES to include social inclusion (2000), pensions (2001) and healthcare and long-term care (2004).

The reality this produces is perhaps best expressed by Ferrera with his characterisation of European welfare states as "semi-sovereign" with their national welfare systems effectively "nested" within the wider notion of Social Europe (Ferrera, 2005: 119).

The MSs have historically been able to shield their social systems from the EU's scrutiny by arguing that such interactions in public service systems should be exempt from internal market considerations. Since the Treaty of Amsterdam (1997) however, the ECJ and the CEU have stipulated that while MSs' welfare "systems" remain sacrosanct, the *inputs* into these systems – labour, capital, machinery, drugs, etc., – arrive via market mechanisms and, as such, are captured by internal market mechanisms (Greer, 2006: 145).

Legally then, social policy remains firmly in the national domain, though policies on gender equality, social inclusion, migrants etc., have emerged at the EU level (Hay, Wincott, 2012: 147). The attempts of the EU to address core social welfare issues – for instance, through the promotion of the "European Social Model" notion (Hay, Wincott, 2012: 152–154; Adnett, Hardy, 2005) – have generally failed in the face of firm MSs' resistance. In reality, however, the CEU has promoted a number of ideational attempts to reinvigorate traditional *engrenage* through, for instance, the mechanism of the "social exclusion process" providing something of a

model for the “purposeful opportunist” approach. The CEU is thus able, for instance, to finesse its coordinating role in the OMC process or to leverage its regulatory authority to structure debate in the direction it deems most appropriate, exploiting windows of opportunity to purposefully pursue its own cohesion agenda while at the same time avoiding direct confrontation with the MSs.

4. Institutions and Institutional Theory

Mainstream state-centric integration theory views institutions as instrumental tools in the hands of their creators (Moravcsik, 1998: 18). This conclusion reflects rather poorly on how the EU is now broadly understood to function within the context of multi-level governance (Hooge, Marks, 2001).

The EU is the most densely “institutionalised” networked system of states in history. Institutional theory thus seems to be an appropriate choice of theoretical framework.¹² Although institutionalism has many variants (Peters, 2012; Lowdes, Roberts, 2013), historical institutionalism has been identified as having the best explanatory value for our purposes.

Institutions matter because they determine the roles and capacity of groups and individuals in policy making thus influencing actors’ abilities to attain their policy preferences. Institutions are both tangible and intangible. While “formal rules, compliance procedures and standard operating procedures” (Hall, 1986: 9) remain important, both formal and informal rules shape actor behaviour. An institution then is a complex mix of rules and procedures governing a given set of human interactions (Stone, Sweet, 2001: 6).

States are bounded rational actors but intensive interaction creates interdependence making unilateral state action increasingly inefficient. Government action by MSs is central to this process and “hard bargaining”

¹² Institutional theory has a long standing in political science. The New Institutional variant discussed here – historical institutionalism – was a core part of the so-called “comparativist turn” (Rosamond, 2000: 106) in EU studies which pivoted away from traditional international relations concerns with binary questions of “state(s) v superstate” and “heroic set piece advances through historic moments of inter-state bargaining” towards a concern with day-to-day politics, administrative routines, position formation and policy implementation across the entire EU governance system. In the integration theory literature then the concern with “institutions” is comparatively novel.

over preferences occurs, but states are neither unitary actors nor they are the only actors. Thus, despite Moravcsik, EU institutions¹³ must be viewed as independent of member state control. Moreover, contrary to functional theory, institutions cannot be designed simply to perform the duties and roles set out for them by their creators in principal-agent terms because their creators generally work with short-term horizons and rarely take account of the potential long-term results of institutional choices which can often have unintended consequences. In addition, institutional arrangements are often difficult to amend because of the obstacles to change created by the presence of veto-holders, multiple veto-decision points, super-majorities or prohibitive procedural decision rules. Institutions are therefore often referred to as “sticky”.

Over time, various “externalities” emerge from institutional design and practice. Governments are generally forced to adjust their preferences and behaviour to avoid high transaction or compliance costs. This preference shifting or “shifting of loyalties and expectations” (Haas, 1958: 16) can thus be seen rather as the unintended result of a series of incremental decisions to shift competences from the national to the European level, motivated by the inefficiencies exposed in previous integration steps where other choices were perceived to have been more costly in the short term (Leuffen et al., 2013: 66).

The notion of “path dependence” is the core of historical institutionalism. Past decisions and/or outcomes can have a defining impact on present or future outcomes. Once a decision is made to move down a particular path, it becomes sub-optimal to go back and start again. Instead, a series of compromise decisions are integrated into the system in an attempt to correct the flaws or change the outcomes. In this way, rules and procedures become “locked in” as actors prefer to adjust their strategies to accommodate the status quo rather than trying to affect significant structural change in the system. This is perhaps best expressed by Pierson (2004: 164) when he notes that “agents of change may play the starring role in the dramatic conclusion, but their appearance in the final chapter is often heavily dependent on preceding developments occurring over an extended period”.

Institutional forms are then frequently quite resilient for a number of reasons. Institutional rules are often hard to change; deliberately so because

¹³ It is important to distinguish between everyday usage of the word “institutions” as in “the institutions of the EU” and its more intangible usage in neo-institutional theory.

they are designed to promote stability and predictability. Moreover, actors are usually intimately aware of the “sunk costs” in the creation of an institution and of the side costs of unravelling the initial “bargain”. Finally, as individual institutions are usually embedded in wider systems of institutionalised networks and rules, institutional change may precipitate changes in other connected institutions or, render the institution in question incompatible with other associated parts of the network.

While this framework is good at explaining why national level structures are often difficult to change, why MSs’ opposition to EU-level social policy is so extensive and why EU social policy has developed in the way it has, as Peters (2012: 77–83) notes, while HI can explain the persistence of institutional patterns it is rather less good at explaining – primarily by means of the notion of punctuated equilibrium – how change occurs. By focusing on the institutions themselves as the sole explanatory factor, it lacks a robust endogenous understanding of agency.

This problem was addressed by Knill (2001: 4–5) who argues that we need to be able to determine when a purely “institutional” explanation is sufficient and when this has to be supplemented with reference to the strategic agency of the actors involved. Institutional explanations suffice when European policies do not appear to directly challenge the core institutional patterns of national administrative traditions or require only relatively small adjustments within the institutional core.¹⁴ If a European-level policy is seen to be in direct opposition to these core national structures and institutions, and the CEU does not have the right of initiative in the policy area concerned, then an institutional explanation for the inevitable domestic opposition is likely to suffice. If, however, such a policy is deemed not to challenge core national administrative traditions the process of domestic adaptation is not so easily addressed by institutional explanations alone. Non-institutional factors have to be considered, thus reintroducing the notion of agency.

¹⁴ Administrative traditions are defined by Knill (2001: 4) as “general patterns of administrative styles and structures which are strongly embedded in the macro-institutional context of the state tradition, the legal system and the politico-administrative system of a country”. This focus on the pivotal role of “core state powers” was subsequently taken up by Genschel and Jachtenfuchs (2014).

5. The CEU's Role in Social Policy Making: Stealthy, Covert and Uninvited?

As an institution, the CEU has quite limited power resources.¹⁵ Administratively, it has developed in a rather different way from that of the MSs. It has a limited capacity for day-to-day management and a power of initiative which is constrained in many areas. In addition, its redistributive powers remain quite weak. Its powers as a regulator and its “ideational” power are formidable, however. As such, its real power is in the area of “agenda shaping” (Majone, 2009: 42–63) and in adopting the role of “purposeful opportunist” – where it tries to maximise its autonomy within the agent-principal relationship it has with the MSs – in exploiting policy “windows of opportunity” as they arise. Success, however, remains highly differentiated across the various sectors within which it is involved, primarily because of the historically path-dependent character of the distribution of power, resources, and institutions in each sector.

In this context, social policy remains an interesting research field precisely because of the MSs' strong opposition to further integration and thus provides an interesting test case on the extent of the Commission's power and influence, primarily in the regulatory and ideational realms. Intergovernmentalism and inter-state bargaining alone cannot easily explain the development of EU social policy to date. Rather, “it is now increasingly accepted that much of the movement towards integration has resulted from the gradual bureaucratic pressure from the Commission” (Cram, 1997: 157).

How else then can we seek to understand and explain current developments in EU-wide SSGI implementation and in EU social policy more generally? As has been noted, initially by Majone (1996, 2009) and latterly by Greer (2006) and Genschel and Jachtenfuchs (2014), the process of European Integration is essentially a “stealthy” one. The CEU must work within certain preordained boundaries, avoiding opposition from within the Council and moving primarily by means of various “soft law”

¹⁵ Given the space constraints applicable here, the fact that the Commission is not a unitary actor has not been explicitly addressed. In reality, however, agency and preference formation in the Commission follow various “logics” at different times and can be motivated either by technocratic problem solving, ideologically driven policy seeking or a desire to maximise organisational competences (whether at the DG level or in terms of the Commission as a whole) *vis-a-vis* the Member States or the European Parliament (Hartlapp et al., 2014: 5–7).

mechanisms, regulatory usage or the creation of relatively small scale expenditure programmes, for example, through the building of “ideational networks” (such as e.g. ESPON).¹⁶ Minimum standard and goal setting is the name of the game here with the CEU endeavouring to “create a role for itself” in a broader standard-setting process. Szyszczak confirms this noting that “Commission”’s actions created a debate around SSGIs that has allowed for Europeanization processes to permeate into an area of competence traditionally, and jealously, protected by the Member States (2013: 320)”.

Moreover, Terpan (2015: 74–76) explains how soft law should be considered in this context, relating it to the nature of the *obligation* and the *enforcement mechanism*. The nature of the obligation to implement “soft law” in the MSs may be viewed by them as compelling (hard), illustrative (soft) or as deriving no obligations at all. The enforcement mechanism in terms of a “hard” obligation in relation to the implementation of “soft law” is either soft or none, a soft obligation is hard, soft or none, while the enforcement mechanism for no obligation in terms of “soft law” is soft enforcement. To meet the requirements for “soft law” implementation, formalised organisational structures and procedures are required.¹⁷

The norms determining “soft law” are usually similar to those for hard law norms. However, they are quasi-legal as they are given a form that clearly resembles hard law. “When the source is quasi-legal, there is a strong probability that an enforcement mechanism is provided, through procedures, information diffusion, bureaucratic operations, and delegation of authorities to enforce and implement rules” (Terpan, 2015: 75). How “soft law” is

¹⁶ The ESPON (European Spatial Planning Observation Network) Programme aims at supporting the reinforcement of EU Cohesion Policy in 28 Member States. It was originally set up in 2002. It is funded by the EU Commission, the 28 Member States and the Partner Countries, Iceland, Liechtenstein, Norway and Switzerland with additional co-financing from the European Regional Development Fund. ESPON is an independent research fund controlled by the EU Commission and the participating countries. The Managing Authority has its seat in Luxembourg. The predecessor to ESPON, the European Spatial Development Perspective, was born at an Informal Ministerial Meeting in Potsdam in 1999. The key policy orientations were outlined for the entire European territory: (1) balanced and polycentric development, (2) good access to regions and services and (3) intelligent management of natural and cultural resources. When the ESDP programme was finalised, ESPON essentially replaced it.

¹⁷ Büchs (2007: 20) conceptualises this OMC “mode of operation” around Robert Putnam’s theory of two-level games (1988). A discussion of this point, however, merits an article of its own and thus the decision was made to restrict the discussion here to institutional theory.

considered in different MSs may actually then, to some extent, be related to what institutional capacity the MSs have to implement it.

The CEU's regulatory power helps it to shape agendas enabling it to deliver its preferred policy outcomes while attempting to avoid direct confrontation with the MSs over core state functions. Soft law tools such as the OMC, combined with the creation of new arenas for disgruntled national-level actors, venue-shoppers, academics or technical bodies slowly adjust the decision calculus at the national level where "windows of opportunity" for the CEU's intervention eventually emerge, enabling it to play a facilitating role. The ECJ also plays an important role here in consistently ruling against the MSs in relation to the applicability of internal market rules in the social policy and healthcare fields.¹⁸

Drawing on the work of Klein and O'Higgins (1985) on the NHS in the UK and on Majone, on the CEU as a regulatory polity and on its desire to expand its own power resources, Cram (1993; 1997) distilled the notion of the CEU as "purposeful opportunist". Examples of CEU activism in the social policy area are, for example, addressed in the work of Valadas (2006) on Territorial Employment Pacts (TEPs) in Portugal, and Greer (2006) on the impact of the Working Time Directive on the UK NHS. The volume edited by Genschel and Jachtenfuchs (2014) takes this research one stage further by noting that while the CEU itself is not a unitary actor and the mechanisms and strategies used by individual DGs differ, the initial barrier to the encroachment into the realm of core state powers has now been removed as integration expands into the fields of fiscal, military procurement and administrative policy. This conclusion clearly supports our contention that this stealthy or covert approach to integration is now

¹⁸ Case law is reasonably clear on this issue. The primary cases cited are: Case C-120/95, *Nicolas Decker v. Caisse de maladie des employes prives* [1998] ECR I-01831 and Case C-158/96, *Raymond Kohll v. Union des caisses de maladie* [1998] ECR I-01931. While the particulars of each case are not at issue here given space constraints – the facts of the cases are covered in Ferrera (2005: 128–131), de Búrca (2005: 6–7) and Martinsen (2013: 54–55) – their outcomes demonstrated that while the Member States remained notionally "sovereign" in the social policy field, this did not give them a blanket exemption from competition or internal market rules, thus allowing national level welfare policies to remain "islands beyond the reach" of EU law. Three further cases served to decisively impact this decision still further: Case C-157/99, *B.S.M Geraets-Smits v. Stichting Ziekenfonds VGZ and H.T.M. Peerbooms v. Stichting CZ Groep Zorgverzekeringen* [2001] ECR I-05473; Case C-368/98, *Abdon Vanbraekel and Others v. Alliance nationale des mutualités chrétiennes (ANMC)* [2001] ECR I-05363; and Case C-385/99, *V.G. Muller-Faure v. Onderlinge Waarborgmaatschappij OZ Zorgverzekeringen UA and E.E.M. van Riet v. Onderlinge Waarborgmaatschappij ZAO Zorgverzekeringen* [2003] ECR I-04509.

also discernible in the implementation of Social Services of General Interest in the European Union.

6. Conclusion: Modest but Discernible Convergence

This paper has sought to draw together the social policy, European studies, spatial planning and European law literatures on European social policy and SSGI in an attempt to better understand the dynamics of SSGI implementation and convergence.

Given the results produced by the Humer et al (2013) typology on SSGI implementation, how can we best understand the social change processes it describes? The typological trends suggest that a change in emphasis and a new set of lenses will produce a rather different picture to that delivered by traditional social policy typologies. In implementation terms the view is much more dynamic with transitions more clearly discernible.

In the typology, the NMS (with the exception of Hungary) adhere to the primary geographical pattern dividing the Mediterranean and North-Central European spheres rather than generating a new explicitly East European or post-Communist cluster of their own. Moreover, one of the clusters clearly predominates, attracting countries from across all areas of Europe except the Mediterranean. This suggests that something important in respect of SSGI implementation convergence is happening.

In our qualitative analysis of the typology advanced by Humer et al, we can clearly identify two clusters and one “repository for failures”. Cluster 1 – including *Bismarckians*, *Nordics*, *Anglo-Liberals* in Esping-Andersen’s terms – most likely “clusters” because of their high absorption capacity and their strong administrative capabilities. Whatever the political philosophy behind their welfare trajectories these states can generally “deliver” change. Cluster two – *the Mediterranean countries* – “clusters” because their states are much less adept at implementing change and administratively they still rely on key individuals and clientelism etc., to deliver any sort of change, which even if successful will likely be uneven. Cluster 3 is more a transient “waiting room” for transitioning states than a cluster in a positive sense. Though Ireland may be able to escape, the prospects look bleak for Greece and Hungary, both of which continued, during the 1990s–2000s, to implement costly clientelistic welfare policies that they could not afford. This came to a juddering halt with the financial crash.

Viewed in the context of continuing *de jure* MS dominance over social policy in the EU, these findings become rather problematic. Initial attempts at harmonisation in the social policy field soon ran into MS opposition and thus in the end rarely went beyond a demand for universal and comprehensive service coverage. At both the ideological level and in terms of service provision and delivery, national differences remain significant, reflecting the reality of the continuing influence of separate histories, institutions and the path dependencies they create. Consequently, harmonisation has long ceased to be an effective mode of integration, so why then is convergence occurring?¹⁹

Historical institutionalism was used to provide the theoretical context for social policy developments at the EU level. It captures well the reasons why bureaucratic and administrative changes are difficult and why formal MSs' dominance in the social policy field exists at the EU level. Institutions, however, rarely function as initially intended by their creators, they seek active engagement and often attempt to break out of the “principal-agent” framework upon which they were originally based in order to develop some measure of decision-making and policy autonomy.

Moreover, HI also provides a plausible account of why convergence occurs. Institutions shape political behaviour in three ways; through rules, practices, and narratives. All three can be seen to have had an impact on the particular ways in which SSGI have been implemented in the EU context. Rules (Single Market) set the framework; practices (OMC/“soft law”) are the enablers while the narratives are provided by the policy entrepreneurs.

The efforts of historical institutionalism to explain major change as the notion of “punctuated equilibrium” do not go beyond an endogenous explanation of change thus necessitating a turn towards agency. It is here that we find a plausible explanation for SSGI implementation convergence in the activism, or “purposeful opportunism” of the CEU. Crucially, this explanation more accurately reflects how the day-to-day politics of the EU actually function.

This is usually discussed in the context of ongoing processes of Europeanization. This reflects the CEU's “activism” in forwarding its own policy agenda through the promotion of “soft law” instruments – including Green and

¹⁹ It is interesting to note that Commissioner Thyssen has recently been quite vocal in “flying a kite” for the notion of harmonising social benefits levels across the EU (Remarks by Commissioner Marianne Thyssen: Policy Orientations for a Social Europe, 9th June, 2015, Press Release STATEMENT/15/5150).

White papers, Communications, Staff Working papers, FAQs, reports and guides, and Commission's comments on the documents of other organisations or stakeholders – as well as the co-option of national-level protagonists involved in “venue shopping” exercises; the promotion of interest group and academic research networks and the exploitation of certain “windows of opportunity” arising from day-to-day politics. This notion was conceptualised by the term “purposeful opportunism” where the CEU attempts to promote its own policy agenda in areas where it does not have the “right of initiative” but in so doing attempts to avoid direct confrontation with core MSs' interests, hence the labels, “*stealthy, covert and uninvited*”.

The data uncovered by Humer et al. suggest that SSGI can be added to the list of areas where integration is being driven by the CEU in a manner which was not originally envisaged and which may lack transparency and democratic accountability. The MSs are not mere bystanders in this process though they do seem to have been comprehensively out manoeuvred in relation to expectations over the utility of the OMC process.

In conclusion, given the analysis above, how then can we characterise this ongoing process in respect of SSGI implementation? The key issue here is how institutional change takes place *within* the MSs in a policy area where they – not the EU – are sovereign. The CEU's ideational power, expressed in terms of rules, practices and narratives seems adept at reshaping national and sub-national level institutions dealing with SSGI implementation – either directly through benchmarking and evaluation practices associated with the OMC approach or indirectly through the creation of new policy arenas and venues not controlled by the MSs. This is not, *per se* a grand, explicit and political refocusing of elite loyalties at the MS level as neo-functionalism argued, but rather an incremental process of administrative experimentation prompted by the CEU and designed to promote its own power.²⁰

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²⁰ The creation of a typology of CEU influence on state and sub-state level SSGI implementation practices represents a fruitful pathway to develop this work further.

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STEALTHY, COVERT AND UNINVITED?
COMMISSION'S "ACTIVISM" IN THE IMPLEMENTATION
CONVERGENCE OF SOCIAL SERVICES OF
GENERAL INTEREST IN THE EU

Summary

The broad aspirations of social policy in the EU continue to be the preserve of the Member States as the particular histories, ideas, and institutions upon which national social policies are based remain quite heterogeneous. A process of convergence is nevertheless discernible in respect of policy implementation. The reasons for this relate to the nature of the European integration process but should not be confused with the broad adoption of a notional "European Social Model", the harmonisation of national policies or, more generally, with the classical approach to EU policy making in the social field. This paper instead explores how the implementation typology on Social Services of General Interest produced by Humer et al. (2013) can be understood in relation to the way in which the European Commission has continued to act as a "purposeful opportunist" by employing "policy entrepreneurship" in the context of the various "new governance" approaches associated with EU social policy.

Keywords: *services of general interest, social services of general interest, social services*

POTAJNO, PRIKRIVENO I NEPOZVANO?
AKTIVNOSTI EUROPSKE KOMISIJE VEZANE ZA
KONVERGENCIJU SOCIJALNIH SLUŽBI
OD OPĆEG INTERESA U EU

Sažetak

Opće karakteristike i težnje socijalne politike u Europskoj uniji ostaju u nadležnosti država članica budući da su povijesni razvoj, ideje i institucije na kojima se temelje nacionalne socijalne politike i dalje vrlo raznoliki. Primjetan je, međutim, proces konvergencije kad se radi o primjeni socijalnih politika. Razlozi za to povezani su s prirodom procesa europske integracije no ne treba ih miješati s općim usvajanjem nacionalnog »europskog socijalnog modela«, harmonizacijom nacionalnih javnih politika, ili, općenitije, s klasičnim pristupom kreiranu javnih politika EU na području socijalne skrbi. Rad se bavi načinom na koji se implementacijska tipologija Humera et al. (2013) primijenjena na socijalne službe od općeg interesa može shvatiti u odnosu na činjenicu da se Europska komisija nastavlja ponašati kao »promišljeni oportunist« koristeći »poduzetništvo u javnim politikama« u kontekstu različitih pristupa »novog upravljanja« koji se povezuju sa socijalnom politikom EU.

Ključne riječi: službe od općeg interesa, socijalne službe od općeg interesa, socijalne službe

Local Public Services in Slovenia – Legal, Organisational, Economic and Financial Aspects

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The paper addresses the legal, organisational, economic, and financial aspects of local public services development in Slovenia in the last two decades. Since both economic and social local public services are taken into account, the research question focuses on main variations in the development and current status of those two categories. The evidence indicates that public services at the local level have undergone substantial changes during the last two decades, and it is clear that legal provisions, although not

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without problems, are better tailored for economic public services than for social public services, which are also subject to larger variation in the sources of financing. Nevertheless, current development also suggests that ongoing changes in local public service delivery mechanisms and organisational forms are occurring, which favours additional service- and sector-specific research.

Keywords: local self-government, economic and social public services, provision and financing of local public services, Slovenia

1. Introduction

Modern local self-government is based on the concept of political decentralization, alongside with the important role of the principle of subsidiarity (Koprić et al., 2014: 249). From the developmental point of view, roles of local self-government have changed, but in a way, they are now present in almost all local self-government systems in Europe, although not in the same proportion. In the course of the 20th century, and especially after WWII, local units took over an important part of public services (so-called social role of local self-government) (Koprić et al., 2014: 255–257).

Public services, both social and economic,¹ have been under severe market pressure in the past years, which has changed both the scope and manner of service delivery.

Nevertheless, experiences with »marketization« have raised several important questions and a trend of re-municipalisation has been observed since 2008 (Busshardt, 2014; Wollmann, 2014; Rakar et al., 2015). After democratization and independence in 1991, Slovenia's local self-government was subject of a major reform, when a shift from the Marxist concept of the commune back to classical European understanding of local self-government took place (Šmidovnik, 1995: 152–153; Vljaj, 2011: 146–

¹ We use the term social service as an equivalent for Slovenian term *negospodarske javne službe*, and the term economic services as an equivalent for Slovenian term *gospodarske javne službe*. In the EU law context, we can subsume both social and economic public services under the concept of services of general interest – non-economic services of general interest and services of general economic interest (cf. Wollmann, Marcou, 2010: 1–4; Koprić, 2014: 557–559; Nikolić, 2015: 51–54).

147).² The second “critical juncture point” (Pierson, 2000) was joining the EU in 2004. Both cases included addressing the functional dimension of local self-government. As far as public services are concerned, the term was introduced by the Institutes Act of 1991 (IA), which introduced a new organizational form for provision of social public services – public institute (*javni zavod*; hrv. *javna ustanova*).³

The main aim of this paper is to present the development of local public services in Slovenia in the last two decades, by addressing legal, economic, financial, and organisational issues. Specifically, the main hypothesis of the paper relates to the question whether the development of economic and social local public services differentiated in any manner. The paper uses the descriptive method, combined with the presentation of selected relevant data to outline contemporary developments and issues.

2. Scope of Local Public Services in Slovenia

2.1. An Overview of the Local Government System

Slovenia is a unitary state with single tier local self-government units, municipalities (slov. *občina*).⁴ Until 1994 municipalities as so-called socio-political communities (slov. *družbenopolitična skupnost*) performed mainly the state administrative tasks⁵ and played a very important role in the economy, while local self-government in a European sense of the word took place in their narrower parts, so-called local communities (*krajevne skupnosti*) (Vlaj, 2011: 146; Grafenauer, Brezovnik, 2011: 81).

² For historical development of the Slovenian local self-government, see Brezovšek, 2014.

³ Institutes Act preceded the adoption of fundamental constitutional legal acts and thus served as an act that formed adequate organizational structures for establishing a new state (Trpin, 2011: 99).

⁴ According to the Constitution of the Republic of Slovenia, residents of Slovenia exercise local self-government in municipalities and other local communities – regions (*po-krajina*) (Articles 138 and 143). Nevertheless, regions have not been constituted yet. See Senčur (2012) for detailed discussion on this issue.

⁵ These tasks were mainly of administrative nature, e.g. issuing building permits, identity cards etc. According to previous research, these tasks represented more than 80% of all municipal tasks after 1974 (decision of the Constitutional Court of Republic of Slovenia No. U-I-13/94; Vlaj, 2002: 153).

Local self-government reform was one of the most important and most difficult tasks after gaining independence in 1991. The reform started with the adoption of the new Constitution and had several goals, for example, enhancing the quality of people's lives in local communities, balanced development of the whole community through implementation of the principles of subsidiarity and decentralization, and establishing a rational and efficient local administration (Vlaj, 2006: 13).⁶

The implementation of the new constitutional design of local self-government began with the 1993 Local Self-Government Act (LSGA) and continued in 1994 with the establishment of the first network of new municipalities.⁷ The European Charter of Local Self-Government was ratified in 1996 and several constitutional provisions were amended in 2006.⁸ Along with legal regulation, several strategic political documents related to local self-government were adopted, the last being the 2015 Strategy for the Development of Local Self-Government in Slovenia.⁹

According to the Constitution, the municipality is competent for local affairs that can be regulated autonomously, and which affect only the residents of the municipality (general competence clause).¹⁰ By law, the state may transfer its specific tasks to municipalities in case it also provides the financial resources (Article 140).¹¹ A town may attain the status of urban municipality in the procedure and under conditions prescribed by law. An urban municipality performs, as part of its competences, particular tasks relating to urban development delegated from the state competence (Article 141).

The Local Self-Government Act (LSGA) stipulates that the original municipal competences are, *inter alia*, regulating, managing, and providing

⁶ According to Vlaj (2011: 148) decentralization has not started yet.

⁷ The number of municipalities grew from 62 in 1991 to 147 in 1994 and to 212 in 2011. LSGA has been amended more than 30 times.

⁸ These changes refer to the establishment of regions (Article 143) and delegation of state tasks to municipalities (Article 140).

⁹ In 2015 several discussions with interested parties and general public took place.

¹⁰ These are local matters of public interest (Article 21 of the LSGA). For the interpretation of substance and boundaries of this term by the Constitutional Court of the Republic of Slovenia see decisions No. U-I-215/96 and U-I-97/05). General competence clause enables municipalities to determine their competences by their own legal acts (Vlaj, 2006: 158). Critically on this issue, see Mlinar, 2008: 388–395.

¹¹ In practice, this transfer is almost non-existent. As of 2006, the prior consent of municipalities for the transfer is no longer required.

for local public services within municipal jurisdiction (Article 21).¹² The municipality provides public services determined by its statute in accordance with the law and public services, which are prescribed by law.

According to Vljaj (2012: 675, 689), Slovenia is one of the most centralized countries in Europe. Its centralisation is strengthened further by the large number of inefficient municipalities. The point at which municipalities are able to ensure the provision of public services is to be determined (see Pevcin, 2013) and is still one of the basic challenges for the future development of local self-government.

2.2. Types and Scope of Public Services

According to Slovenian theory and legislation, (local) there are two categories of public services – economic and social. (Local) economic public services are further divided into two sub-categories, obligatory and elective (Article 3, Services of General Economic Interest Act, SGEIA). Elective services are subdivided into those whose electiveness has been stipulated by law and those whose electiveness has been stipulated by the municipality (Grafenauer, 2009: 213). Economic public services are regulated by sector specific laws in the field of energy, transport and communications, public utilities, water management and management of other types of natural resources, environmental protection, and the laws regulating other areas of economic infrastructure (Article 2 of SGEIA). Social public services are regulated by sector specific laws in the field of education, science, culture, sports, health, social care, childcare, disability care, and social security (Article 1 of IA).

¹² The list of duties and functions in the LSGA is exemplary. Concrete competences are determined by sector specific laws (currently more than 100), whose number grows (Government of the Republic of Slovenia, 2013: 3). Municipal competences are listed in the catalogue of local competences (available via Lex Localis Portal, <http://www.lex-localis.info>).

Table 1: Examples of Present Local Economic and Social Public Services

Economic public service			Social public service		
Field	Law	Service	Field	Law	Service
Energy	Energy Act (2014)	Distribution system operator Distribution of heat and other energy gases	Education and sport	Adult Education Act (1996)	Education, training, and learning
Transport and communications	Maritime Code (2001)	Regular maintenance of port infrastructure used for public transport; Regular waste collection from vessels		Organization and Financing of Education Act (1996)	Programs for preschool children, educational programmes, special education programmes for children and youth with special needs
	Roads Act (2010)	Maintenance of local public roads			
	Inland Waterways Navigation Act (2002)	Management of ports			
	Cableway Installations for Carrying Persons Act (2003)	Passenger transportation on the ski lifts			
Agriculture, forestry, fishing and hunting	Animal Protection Act (1999)	Providing shelters			
Nature and environment	Nature Conservation Act (1999)	Management of Protected Local Areas			
	Environmental Protection Act (2004)	Drinking water supply Collection and treatment of urban and drainage waste water Collecting and processing certain kinds of municipal waste Disposal of processing residues or disposal of municipal waste Cleaning of public areas			

	Waters Act (2002)	Operation, maintenance, and monitoring of water infrastructure designed to protect against adverse effects of water			
Spatial Planning	Cemetery and Funeral Services Act (1984)	Cemetery and funeral services			
	Land Survey Service Act (2010)	Local Geodetic Service			

Source: Adapted from Lex Localis Portal (www.lex-localis.info) with additions by the authors

2.3. Development of Public Services

The first public services reform in Slovenia occurred together with the transition to the new constitutional and political system in the 1990s. Before 1991¹³ public services were known as services of special societal importance (*dejavnosti posebnega družbenega pomena*)¹⁴ and performed by the so-called self-governed interest communities (*samoupravne interesne skupnosti*) and so-called organizations of joint work (*organizacije združenega dela*). The competences of the former later passed to the executive bodies of the national and local assemblies. The latter were substituted with new organizational forms – for social public services, the Institutes Act of 1991 introduced the public institute (*javni zavod*), and for economic public services the Services of General Economic Interest Act of 1993 (SGEIA) introduced the so-called overhead plant (*režijski obrat*), economic public institute (*javni gospodarski zavod*), public enterprise (*javno podjetje*), concession (*koncesija*), and public investment in private law organizations (*vlaganje javnega kapitala v dejavnost oseb zasebnega prava*). Both laws determined which activities were public services before their explicit regulation in sector specific laws and thus enabled a unified transition from the previous to the present legal arrangement. Special attention was paid

¹³ The old Yugoslav legal regulation used the term public services until the mid-1960s when changes of the constitutional system took place (Trpin, 2011: 98).

¹⁴ Social public services were known as social services of special societal importance (*družbene dejavnosti posebnega družbenega pomena*) and economic public services as services of special societal importance of economic infrastructure (*dejavnosti posebnega družbenega pomena gospodarske infrastrukture*) (Trpin, 2011: 100). Cf. Services of General Economic Interest Act of 1993 (Article 68) and Institutes Act of 1991 (Article 64).

to objects and devices required to perform public services, which mainly became state or municipal property (Trpin, 2011: 101–102).¹⁵

Despite positive effects of these two laws, several shortcomings and uncertainties remained and further uncertainties occurred when the new Companies Act of 2006 (CA-1) and Public-Private-Partnership Act of 2006 (PPPA) were adopted (Brezovnik, 2008: 1–6, 252). As a result, the development of social public services is marked by several problems that have still not been resolved satisfactorily, for example, concession,¹⁶ legal status and financing of public institutes, possibility of their legal transformation, and their market activity and assets (Trpin, 2011: 103; Brezovnik, 2008: 249–250; Brezovnik, Oplotnik, 2011). The development of economic public services was slightly less problematic as a result of better legal regulation in the SGEIA (Trpin, 2011: 112). This act, contrary to the Institutes Act of 1991 as a primarily legal status act, regulated economic services systematically and comprehensively and was (is) extremely stable. Nevertheless, it had its own shortcomings, e.g. regulation of public holding, economic public institute, public company, and concession (Trpin, 2011: 112–115; Brezovnik, 2008: 251–252).

3. Forms of Local Public Service Provision

Forms of local public services provision in Slovenia are stipulated in the Local Self-Government Act (LSGA), Institutes Act (IA), Services of General Economic Interest Act (SGEIA) and Public-Private Partnership Act (PPPA). All forms can be divided into two types – public and privatized (Virant, 2009: 142).

¹⁵ In practice, state and municipalities started to invest this infrastructure as an in-kind contribution to public and other companies and thus lost property, which practically nullified the idea of competition in the field of publicly-owned infrastructure (Trpin, 2011: 102–103).

¹⁶ Several legal institutes of concession are not regulated, e.g. transfer of concession.

Table 2: Forms of Local Public Services Provision

Type form	Public		Privatised
1) Body	1.a) Overhead plant (<i>režijski obrat</i>)		Concession / contractual P-P-P (<i>koncesija</i>)
2) Legal entity of public law	2.a) Public institute (<i>javni zavod</i>)		Equity P-P-P (<i>statusno javno-zasebno partnerstvo</i>)
	2.b) Public economic institute (<i>javni gospodarski zavod</i>)		
	2.c) Public enterprise (<i>javno podjetje</i>)		

Source: Adapted from Virant (2009: 141–150) with authors' own additions

According to the LSGA, the municipality may provide public services via the municipal administration body, by establishing public institutes and public enterprises, by granting concessions, and in any other way determined by law (Article 61, Paragraph 1).¹⁷ Overhead plant (*režijski obrat*) is a relatively rare form of local economic public services provision.¹⁸ It may be used when it would be uneconomical or irrational to establish a public enterprise or to give a concession due to the small size or the characteristics of the service (Article 6).¹⁹ Public economic institute (*javni gospodarski zavod*) is a very rare form of local economic public services provision. The SGEIA has stipulated its use when a public service, due to its nature, cannot be provided as a profit activity or if profit is not a goal of such a service (Article 18). Public economic institute may be either a legal entity of public law or an entity without legal personality (Article 19).²⁰ Co-founders may be legal persons other than municipalities, but their share must not exceed 49%. Public enterprise (*javno podjetje*) is the

¹⁷ Public institutes and public companies may be established jointly and concessions may be granted jointly, too. For exercising the founders's rights, the council of founders and the council of concedents are established by municipal councils respectively. Members of the council are mayors (Article 61/2).

¹⁸ Approximately 20 bodies of this type have been established.

¹⁹ It is mainly used in the area of environment protection (see Table 1).

²⁰ The cases include, for example, bus passenger transport (city of Maribor between 2011 and 2012), flight centre (municipality of Brežice), etc.

most widespread form of local economic public services provision. It is used for the provision of one or more services of increased volume or when economic public service is a monopoly. In both cases, services are required to be performed profitably (Article 6, SGEIA). Public enterprise is organized as a company with share capital and is commonly regarded as a legal entity of public law (Brezovnik, 2008: 177).²¹

Legal regulation of granting concessions for providing economic public services (so-called contractual P-P-P) is quite complicated as provisions of the SGEIA and PPPA are intertwined (Virant, 2009: 150).²² According to the PPPA, the public partner should inform the Ministry of Finance about conclusion of P-P-Ps (Article 70). However, in practice municipalities and other public partners do not fulfil this legal obligation. Consequently, there is no database on concessions granted by municipalities. In practice, municipalities grant concessions for public passenger transport, waste management, cemetery services, etc.²³

Forms of (local) social public services provision are regulated in IA and PPPA. Public institutes are regulated in the IA. They have the same legal characteristics as the institutes of private law, except for some particularities. They are founded by the municipality or the state. Entities of private law may be co-founders. Public institutes can be either legal entities of public law or an organizational part of municipal administration. In practice, former prevails. Concessions for provision of social public services are regulated in the IA, PPPA, and sector specific legislation.²⁴

Municipalities determine the form of local public services provision, unless the law has stipulated otherwise (LSGA, Article 62). In practice, local public services are mostly provided by public enterprises and public institutes, and by granting concessions. Other forms of public-private partnerships primarily include some forms of build-operate-transfer project financing (Grafenauer, Klarić, 2011; Grafenauer, 2009).

²¹ In 2006 the PPPA provided a time limit for transformation of public enterprises into mixed (i.e. public-private) ownership. They have to be transformed either in a) public enterprises in 100% public ownership or into b) “classic” company (in this case they must be given concession) (Article 141, 142). However, in practice the transformation has not been implemented completely. See Brezovnik (2008: 252–254).

²² For more details see Ferik, Ferik (2008).

²³ For discussion on remunicipalization in Slovenia, see Rakar et al. (2015).

²⁴ For discussion on the health care, see Vegel, Pečarič (2014).

4. Socio-Economic Role and Financing of Local Public Services

Given the legal provisions, public services tend to be a very important part of local government functions from the economic/financial perspective. The table below indicates that municipalities' functional activities, such as economic utilities, environmental protection, housing and spatial development, which are part of economic local public services, and recreation, culture, education and social security, which are part of social public services, take a substantial part of municipal budgets.

Table 3: Breakdown of Consolidated Municipal Expenditures in Slovenia for 2014

Functional activity	Percentage of total consolidated outlays
Public administration	16.1
Defence	0.2
Public order	1.9
Economic utilities	19.3
Environmental protection	11.9
Housing and spatial development	10.6
Health care	0.9
Recreation, culture and activities of NGO's	9.8
Education	23.6
Social security	5.7

Source: Adapted from the Ministry of Finance (2015), authors' calculations

The system of financing local public services in Slovenia differs for economic and social public services. For the former, the Services of General Economic Interest Act (SGEIA) stipulates that economic public services can be financed through service delivery payments, from budgetary funds or from other resources prescribed by law or local authority's decision. The first mechanism is suggested when the utilization of service benefits can be measured and individualised, even though price differentiation, price discrimination, or price subsidisations are still allowed. It is worth noting that this mechanism prevails in practice. The second mechanism is suggested when the utilisation of service benefits cannot be measured nor individualised, or subsidisation is needed. The third mechanism of financing stipulates additional possibilities to raise resources, such as local taxes,

loans, foreign investments, and vouchers. The service prices are regulated by each municipality, based on the yearly plans of services providers.²⁵

The mechanism of financing social public services is regulated by the Institutes Act (IA). Finances can be provided by the founders, by payments for services delivered, by selling other goods and services in the market, or by other resources prescribed by law or founding acts, although the revenue surplus can be used only for the reinvestments in the basic activities of the institute. Unlike the easily determined financing mechanism for the economic public services, it is much more difficult to do so for social public services.²⁶ The table below indicates relatively large variations in the financing of different types of social public services. For instance, it is evident that nursing homes receive the majority of their revenues from users, whereas primary schools and music schools tend to receive the majority of revenues from municipal budgets.

Table 4: Financing Mechanisms of Social Public Services in Slovenia, in %

	Financing by founders (budget)	Financing by users	Market-based financing
Public Institutes – education and sport	82.6	12.6	4.8
a) Kindergartens	75.5	22.2	2.3
b) Primary schools	87.5	10.6	1.9
c) Music schools	87.5	12.1	0.4
Public Institutes – health care	75.3	16.5	8.1
a) Health centres	78.1	14.1	7.7
b) Pharmacies	48.4	30.9	20.7
c) Institutes of Public Health	20.0	36.4	43.6
Public institutes – social security	45.3	51.5	3.2
a) Nursing homes	20.6	74.7	4.7
b) Work protection centres	91.6	8.1	0.2
Public Institutes – Culture	80.6	14.2	5.2
a) Theatres	83.6	15.6	0.9
b) Cultural centres	53.7	28.4	17.9
c) Libraries	91.5	7.5	0.9

Source: AJPEs (2010), Ministry of Public Administration RS (2010)

²⁵ These plans must include ex-ante as well as ex-post (from the previous periods) summarisations on the quantities of services provided, costs of service provision, comparisons of costs to other providers in comparable municipalities etc.

²⁶ Only those social public services that have more local nature are presented.

Nonetheless, the static approach to the analysis should be upgraded as local public services are facing numerous challenges. Namely, as fiscal pressures in Slovenia have increased in recent years, austerity management has required reorganisations of all segments of the public sector; including public services at the local level (see Pevcin, 2014). In this context, some emerging issues related to service forms and delivery mechanisms have to be pointed out, as field experience indicates some interesting occurrences. The LSGA stipulates that municipalities can jointly provide local public services, especially if this increases the efficiency and effectiveness of service delivery. It further stipulates that such service provision is performed by joint establishment of a public enterprise or a public institute, and the functioning of these services is supervised by joint municipal bodies. Evidence indicates that joint municipal bodies tend to be rather common these days – there are currently 48 of them, involving 195 municipalities – although they tend to focus mainly on joint delivery of administrative tasks, e.g. inspections. Only five of those bodies perform joint provision of public services (Fonda, Žohar, 2015). Consequently, further potential exists for development of joint public service provision at the local level, especially for smaller municipalities, in order to achieve scale effects and subsequently greater efficiency of service delivery.

In contrast, larger municipalities, particularly those with the so-called urban status, are inclined toward establishing public holdings, which can be created under the SGEIA. For instance, urban municipality of Ljubljana had initially created such a holding, and later also some of the other neighbouring municipalities joined to establish Public holding Ljubljana, a limited liability company for delivering economic public services. A clear advantage of such organisations lies in the accumulation and sharing of knowledge, in joining business processes etc., which leads to greater efficiency of service delivery combined with substantial direct and indirect cost savings (see Grozde, 2011).

5. Conclusion

This paper has presented the development of local public services in Slovenia in the last two decades. It is evident that since 1991, legal and organisational forms have changed substantially, and new forms, such as public institute for social public services or public enterprise for economic local public services, have been introduced. However, better legal provi-

sions enabled less problematic development of economic public services in comparison to social public services. Similarly, the prevailing financing mechanism differs. Principal revenue source for economic local public services are their users. Social local public services, however, are primarily financed by their founders and revenue sources are much more diverse. It should be noted that the authors have used predominantly descriptive methodology and tried to portray the general development and status of local public services in Slovenia. Subsequently, further research on the potential directions of the development and transformation of local public services in Slovenia is highly warranted. Given the particularities of different services provided by municipalities, sector- and service-specific approach is needed, addressing the evaluation of organisational forms, delivery mechanisms, and financing sources of services under consideration.

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LOCAL PUBLIC SERVICES IN SLOVENIA –
LEGAL, ORGANISATIONAL, ECONOMIC AND
FINANCIAL ASPECTS

Summary

The paper addresses the legal, organisational, economic, and financial aspects of local public services development in Slovenia in the last two decades. Since both economic and social local public services are taken into account, the research question is focused on main variations in the development and current status of those two categories. The evidence indicates that public services at the local level have undergone substantial changes in the past two decades, and it is clear that legal provisions, although not without problems, are better tailored for economic public services than for social public services, which are also subject to larger variation in the sources of financing. Nevertheless, current development also suggests that ongoing changes in local public service delivery mechanisms and organisational forms are occurring, which favours additional service- and sector-specific research.

Keywords: local self-government, economic and social public services, provision and financing of local public services, Slovenia

LOKALNE JAVNE SLUŽBE U SLOVENIJI –
PRAVNI, ORGANIZACIJSKI, EKONOMSKI I
FINANCIJSKI ASPEKTI

Sažetak

Rad obrađuje pravne, organizacijske, ekonomske i financijske aspekte razvoja lokalnih javnih službi u Sloveniji tijekom dvaju posljednjih desetljeća. Budući da se analiziraju i ekonomske i socijalne lokalne službe, istraživačko pitanje orijentira se na glavne promjene u razvoju i sadašnje stanje u ta dva sektora. Podaci pokazuju da su lokalne javne službe u tom razdoblju prošle supstancijske promjene. Vidi se da je pravna regulacija, premda nije bez problema, prikladnije razvijena u sektoru ekonomskih nego socijalnih lokalnih službi, s tim da u pogledu potonjih postoje još i brojne razlike u izvorima financiranja. Uočene razvojne linije upućuju na promjene u načinima pružanja i organizacijskim formama za lokalne javne službe, što otvara potrebu daljnjih istraživanja usmjerenih na specifičnosti pojedinih sektora i službi.

Ključne riječi: lokalna samouprava, ekonomske i socijalne javne službe, pružanje i financiranje lokalnih javnih službi, Slovenija

Upravni sud u Rijeci

UDK 347.998.85(497.5 Rijeka)(094.8)

PRAVO NA RAZGLEDANJE SPISA PREDMETA NAKON OKONČANJA UPRAVNOG POSTUPKA, čl. 84. Zakona o općem upravnom postupku, NN 47/09

Upravni sud Rijeci poništio je presudom od 29. siječnja 2015. odluku Ministarstva obrane Republike Hrvatske, Uprave za ljudske resurse, Sektora za upravljanje ljudskim resursima, od 7. svibnja 2014. te predmet vratio tuženiku na ponovni postupak i naložio tuženiku da u roku od 60 dana od dostave ove presude tužitelju omogući razgledavanje spisa predmeta upravnog postupka u upravnoj stvari prestanka djelatne vojne službe tužitelja te umnožavanje isprava iz tog spisa ili da u istom roku donese i tužitelju dostavi rješenje kojim odbija tužiteljev zahtjev za razgledavanje navedenog spisa predmeta.

Tužitelj u tužbi tvrdi da tuženik u propisanom roku nije odlučio o tužiteljevu prigovoru podnesenom zbog propuštanja postupanja javnopravnog tijela po zahtjevu tužitelja za razgledavanje spisa predmeta upravnog postupka u upravnoj stvari prestanka djelatne vojne službe tužitelja (rješenje od 8. prosinca 2004.) te za umnažanje isprava iz tog spisa predmeta. Tužitelj je prigovor podnio nakon primitka akta tuženika od 7. svibnja 2014., sastavljenog u obliku dopisa kojim je negativno odgovoreno na tužiteljev zahtjev pozivom na to da je tužitelju tijekom 2010. već omogućeno razgledavanje spisa, te da je riječ o pravomoćno okončanom predmetu čiji je spis prosljeđen u arhivu. Tužitelj predlaže da Sud naloži tuženiku da u roku od 15 dana tužitelju omogući razgledavanje tog spisa predmeta i umnožavanje isprava sadržanih u spisu, podredno da naloži tuženiku da o eventualnom odbijanju tužiteljeva zahtjeva u roku od 30 dana donese rješenje.

Tužba je na odgovor tuženiku dostavljena rješenjem od 21. kolovoza 2014. Tim je rješenjem tuženiku za odgovor na tužbu ostavljen rok od 30

dana, a rješenje je tuženiku dostavljeno 26. kolovoza 2014., međutim, u ostavljenom roku, ni do dana donošenja ove presude tuženik nije postupio prema zatraženom.

Na temelju razmatranja svih činjeničnih i pravnih pitanja, Sud je utvrdio da je tužbeni zahtjev osnovan.

Kad god javnopravno tijelo u cijelosti ili djelomice odbije zahtjev stranke ili druge osobe s pravnim interesom za razgledanje spisa predmeta te za umnažanje akata iz spisa o vlastitom trošku, neovisno o razlozima neudovoljavanja zahtjevu, dužno je o tome odlučiti rješenjem, tj. upravnim aktom (čl. 84/4. Zakona o općem upravnom postupku, dalje ZUP).

Uvidom u akt tuženika od 7. svibnja 2014., priložen tužbi, Sud je utvrdio da taj akt ima bitna obilježja upravnog akta (pojedinačne odluke), tj. odluke javnopravnog tijela donesene prema čl. 84/4. ZUP-a, pri čemu je osporenom odlukom tuženik u osnovi odbio tužiteljev zahtjev (»... smatramo Vaš ponovni zahtjev neosnovanim«); da taj akt ne sadržava valjano i potpuno obrazloženje, propisano odredbom čl. 98/5. ZUP-a, koje bi omogućilo ocjenu njegove zakonitosti, zbog čega je Sud ovaj spor odlučio riješiti bez rasprave, sukladno normi čl. 36/3. Zakona o upravnim sporovima (NN 20/10, 143/12, 152/14, dalje ZUS) prema kojoj sud može presudom riješiti spor bez rasprave ako utvrdi da pojedinačna odluka sadržava nedostatke koji sprječavaju ocjenu njegove zakonitosti. Nadalje, u slučajevima – poput predmetnoga – u kojima javnopravno tijelo povodom zahtjeva stranke donese akt za koji stranka osnovano može biti u dvojbi je li riječ o upravnom aktu, sud u upravnom sporu može primijeniti jednu od dviju varijanti: tretirati takvu situaciju kao šutnju uprave ili ocijeniti prijeporni akt upravnim aktom nepotpunog sadržaja i poništiti takav akt. U varijanti šutnje uprave u odnosu na pokretanje upravnog spora ne postoji prekluzivni, već samo dilatorni rok, pa nakon proteka toga roka tužitelj može podnijeti tužbu sve dok traje šutnja uprave. Imajući na umu netom navedeno te polazeći od cilja upravnosudske zaštite i od toga da na tužiteljev teret ne može ići tuženikov propust, koji se propust očituje u donošenju akta koji je u tolikoj mjeri imperfektan da stranka razložno može posumnjati da nije riječ o upravnom aktu, nema valjanog razloga da se u odnosu na drugospomenutu varijantu zaštite tužiteljeva prava, koju je Sud primijenio u predmetnom slučaju, prema tužitelju primjenjuje stroži rok za podnošenje tužbe, pa ako je tužba pravodobna po jednoj od mogućih varijanti, pravodobnom se ima smatrati i po drugoj varijanti. Sud je o tužiteljevoj tužbi odlučivao imajući u vidu njezin supstancijalni sadržaj i cjeloviti kontekst tužbenih navoda, neovisno o tužiteljevu pozivanju na

šutnju uprave, ali takva ocjena Suda ne može rezultirati uskratom sudske zaštite stranci koja je imala osnovane razloge smatrati da se radilo o šutnji uprave, a sud je mogao tužbu tretirati i kao tužbu zbog šutnje uprave.

U pogledu tužiteljeva zahtjeva za provedbu rasprave u ovom sporu, napominje se da takav zahtjev čini zapreku za rješavanje spora bez rasprave samo po osnovama iz čl. 36. t. 4. i 5. ZUS-a, a ne i prema ovdje primijenjenoj odredbi t. 3. toga članka.

Sud dodatno napominje da okolnosti da je taj upravni postupak pravomoćno dovršen, odnosno da je stranci prije već omogućeno razgledavanje spisa, same po sebi ne isključuju pravo stranke na razgledavanje spisa predmeta, jer za takvo stajalište nema pravnog uporišta, nije sukladno svrsi instituta razgledavanja spisa, niti proizlazi iz primjene općeprihvaćenih tehnika pravne interpretacije. K tome, pravni interes za razgledavanje spisa može postojati i nakon pravomoćnosti rješenja, npr. radi pripreme podnošenja izvanrednoga pravnog lijeka. Stoga tuženik može tužitelj zahtjev – u dijelu koji se ne odnosi na razgledavanje sadržaja spisa koji je nedostupan prema čl. 84/1. ZUP-a – odbiti samo ako za odbijanje postoji propisani razlog ili ako je spis uništen u skladu s propisima o rokovima čuvanja akata.

Presuda od 29. siječnja 2015.

RAZGRANIČENJE DOMENA ZAKONA O AZILU I ZAKONA O STRANCIMA, čl. 4., 7., čl. 2/1. podst. 21., čl. 60/1. t. 4. i čl. 60/5. Zakona o azilu, NN 79/07, 88/10 i 143/13

Upravni sud u Rijeci presudom od 4. ožujka 2015. odbio je tužbeni zahtjev radi poništenja rješenja Ministarstva unutarnjih poslova od 18. rujna 2014. te radi usvajanja tužiteljeva zahtjeva za odobrenje azila ili supsidijarne zaštite u Republici Hrvatskoj, podredno radi vraćanja predmeta tuženiku na ponovni postupak.

Rješenjem tuženika od 18. rujna 2014. odbačen je zahtjev tužitelja, državljanina Republike Kosovo, podnesen 11. rujna 2014., za azil u Republici Hrvatskoj. Odluku o odbijanju tužiteljeva zahtjeva za azil tuženik je utemeljio, u bitnome, na sljedećim utvrđenjima: tužitelj je prvi zahtjev za azil u Republici Hrvatskoj podnio 7. listopada 2010., koji je odbijen izvršnim rješenjem tuženika od 3. prosinca 2010. slijedom utvrđenja da se tužitelj

može smatrati migrantom, a ne izbjeglicom u smislu Zakona o azilu i Konvencije o statusu izbjeglica iz 1951., prije svega jer su razlozi zbog kojih je napustio zemlju podrijetla neposredno povezani s ekonomskim prilikama, a ne eventualnim diskriminacijskim mjerama; u navedenom postupku ujedno je utvrđeno da tužitelj ne ispunjava ni uvjete za odobrenje supsidijarne zaštite (čl. 7. Zakona o azilu), jer nisu utvrđene nikakve konkretne okolnosti koje bi upućivale na to da bi tužitelj povratkom u zemlju podrijetla bio izložen ozbiljnoj nepravdi; k tome, utvrđeno je da je tužitelj, prema vlastitom iskazu, teritorij Kosova napustio 1989., u vrijeme kada su i taj teritorij i teritorij Republike Hrvatske činili dio SFRJ, pa se radilo o preseljenju koje ima karakter promjene prebivališta unutar jedne države; u ponovnom zahtjevu od 11. rujna 2014. tužitelj nije iznio nove relevantne činjenice i okolnosti, što je razlog za odbacivanje tog zahtjeva, sukladno čl. 60/1. t. 4. i čl. 60/5. Zakona o azilu; tužitelj je već prijašnjim rješenjem o odbijanju zahtjeva za azil upućen na mogućnost reguliranja svojeg statusa sukladno odredbama Zakona o strancima, a ne prema Zakonu o azilu.

Tužitelj osporava zakonitost tuženikove odluke i tvrdi, u bitnome, da tužiteljev zahtjev nije u cjelini razmotren i riješen, jer je tužitelj, osim što je tražio azil, tražio i supsidijarnu zaštitu, dok se ne riješe njegovi zahtjevi za privremeni boravak radi spajanja obitelji odnosno za primitak u hrvatsko državljanstvo. Ističe da je tužitelj oženjen s hrvatskom državljankom, s kojom ima devetero djece, koji su svi hrvatski državljani, te trebaju oca i uzdržavatelja. Ako bi se vratio u zemlju podrijetla, tužitelj bi bio suočen sa stvarnim rizikom trpljenja ozbiljne nepravde, bio bi lišen kontakta i života sa svojom obitelji, pri čemu na Kosovu nema ni posla ni rodbine, pa nije u mogućnosti i ne želi se staviti pod zaštitu te zemlje. Stoga smatra da je tuženik bio dužan tužitelju pružiti supsidijarnu zaštitu.

Na temelju razmatranja svih činjeničnih i pravnih pitanja, Sud je utvrdio da tužbeni zahtjev nije osnovan.

U Republici Hrvatskoj odobrit će se azil strancu koji se ne nalazi u zemlji svog državljanstva ili osobi bez državljanstva koja se nalazi izvan zemlje uobičajenog boravišta, koja se zbog osnovanog straha od proganjanja zbog svoje rase, vjere, nacionalnosti, pripadnosti određenoj društvenoj skupini ili političkog mišljenja ne može ili se zbog tog straha ne želi staviti pod zaštitu te zemlje (čl. 4. Zakona o azilu).

Supsidijarna zaštita odobrit će se strancu koji ne ispunjava uvjete za odobrenje azila, a za kojeg postoje opravdani razlozi koji upućuju na to da će se, ako se vrati u zemlju podrijetla, suočiti sa stvarnim rizikom trpljenja ozbiljne nepravde i koji nije u mogućnosti ili se zbog takvog rizika ne želi

staviti pod zaštitu te zemlje (čl. 7. Zakona o azilu). Prema čl. 2/1. podst. 21. toga Zakona, ozbiljna nepravda podrazumijeva prijetnju smrtnom kaznom ili smaknućem, mučenje, nečovječno ili ponižavajuće postupanje ili kažnjavanje te ozbiljnu i individualnu prijetnju životu zbog proizvoljnog nasilja u situacijama međunarodnog ili unutarnjeg oružanog sukoba.

Odredbom čl. 60/1. t. 4. Zakona o azilu propisano je da će se zahtjev za azil odbaciti rješenjem ako je tražitelj azila, nakon odluke o odbijanju zahtjeva za azil koja je postala izvršna, podnio novi zahtjev za azil u kojem nije iznio nove relevantne činjenice i okolnosti. Prema st. 5. navedenoga članka, o osnovanosti ponovljenog zahtjeva za azil nakon izvršne odluke kojom je zahtjev za azil odbijen odlučivat će se samo ako tražitelj azila predoči nove dokaze ili navede nove činjenice kojima potkrepljuje svoj ponovljeni zahtjev. Novim dokazima i činjenicama podrazumijevaju se dokazi i činjenice koji su nastali nakon izvršne odluke u prethodnom postupku ili koje tražitelj azila iz opravdanih razloga nije predočio u prethodnom postupku.

Uvidom u spis predmeta upravnog postupka Sud je utvrdio da novi zahtjev tužitelja od 11. rujna 2014. ne sadržava nove dokaze i činjenice u smislu normi čl. 60/1. t. 4. i čl. 60/5. Zakona o azilu.

Nadalje, imajući na umu odredbe čl. 4. i čl. 7. (vezano uz čl. 2/1. podst. 21.) Zakona o azilu, Sud utvrđuje da razlozi koje je sâm tužitelj naveo u opširnom iskazu danom u upravnom postupku, niti razlozi izneseni u ovome sporu, ne čine temelj za odobrenje azila, ni supsidijarne zaštite, zbog razloga navedenih u obrazloženju osporene odluke i u odgovoru tuženika na tužbu (prethodno sumarno citiranih u ovome obrazloženju), koji razlozi proizlaze iz spisa predmeta upravnog postupka te koje razloge prihvaća i ovaj Sud. Humanitarni razlozi povezani s tužiteljevom obiteljskom situacijom mogu biti relevantni prilikom reguliranja statusa tužitelja kao stranca prema Zakonu o strancima, ali ne i pri odlučivanju o odobravanju azila odnosno supsidijarne zaštite, gdje su odlučni izrijekom normirane vrste rizika koji podnositelju zahtjeva prijete u zemlji podrijetla, niti odobrenje azila ili supsidijarne zaštite može činiti »premosnicu« do rješavanja statusa stranca u zemlji boravka.

Stoga bi, čak i da nije bila riječ o ponovnom zahtjevu za azil – što, zbog prethodno iznesenog, u predmetnom slučaju rezultira odbacivanjem zahtjeva tužitelja – pri takvom stanju stvari tužiteljev zahtjev valjalo odbiti, kako u pogledu pretpostavki za odobrenje azila tako i u odnosu na pretpostavke za odobrenje supsidijarne zaštite.

Presuda od 4. ožujka 2015.

ODNOS NEUCRTANOSTI GRAĐEVINE U KATASTARSKI OPERAT I (NE)ZAKONITOSTI GRAĐEVINE, U PREDMETU UKLANJANJA GRAĐEVINE, čl. 330. Zakona o prostornom uređenju i gradnji, NN 76/07, 38/09, 55/11, 90/11, 50/12

Upravni je sud presudom od 18. ožujka 2015. poništio rješenje Ministarstva graditeljstva i prostornoga uređenja od 12. studenoga 2012. te je predmet vratio tuženiku na ponovni postupak.

Rješenjem Ministarstva graditeljstva i prostornoga uređenja, Uprave za inspekcijske poslove, Sektora građevinske inspekcije, Područne jedinice u R., Službe P.–g. županije od 4. lipnja 2012., naredeno je vlasnici D. J., ovdje tužiteljici, uklanjanje rekonstrukcije dogradnje stambene zgrade izgrađene uglavnom na k.č. br. 957, a samo manjim dijelom na k.č. br. 108, sve k. o. ..., tlocrtnih veličina 5,12 do 5,42 x 5,02 m, visine jedne prizemne etaže, izgrađene bez izvršnog rješenja o uvjetima građenja, uz nalog da se uklanjanje izvrši putem druge osobe ako ga u roku od 15 dana vlasnica ne izvrši sama. Protiv navedenog rješenja tužiteljica je izjavila žalbu koju je tuženik rješenjem od 12. studenoga 2012. odbio.

U ovom je upravnom sporu sporno je li građevina o kojoj je riječ legalno sagrađena te je li izreka prvostupanjskog rješenja dovoljno i pravilno određena.

Sud je, s obzirom na dokumentaciju iz spisa predmeta upravnog postupka, prvostupanjsko i drugostupanjsko rješenje našao nedovoljno obrazloženim u svezi s vremenom gradnje predmetne dogradnje te s tim u svezi i s njezinom legalnosti.

Tužiteljica je u upravnom postupku upirala da je tu dogradnju izveo prijašnji vlasnik P. S. i tome u prilog dostavila izjavu I. C., u kojoj se navodi da je dogradnja izvedena u razdoblju 1930.–1940. Toj izjavi prvostupanjsko tijelo nije poklonilo vjeru zato što tužiteljica nije dostavila dokaz da je davatelj izjave isti I. C. koji je u zemljišnim knjigama upisan vlasnikom k.č. br. 957 te zbog toga što izjava nije ovjerena, što ovaj Sud nalazi neosnovanim. K tome je drugostupanjsko rješenje u tom dijelu nejasno i proturječno, jer proizlazi da tuženik prihvaća tužiteljicine navode da je tu dogradnju izveo prednik tužiteljice P. S., ali da je tužiteljica preuzela sva prava i obveze svog pravnog prednika. Međutim, tuženik navodi da je P. S. prodao predmetnu nekretninu F. S., koji ju je potom i sam prodao 1965., pa bi iz toga proizlazilo da je, ako tuženik prihvaća da je dogradnju izveo P. S., dogradnja izgrađena prije 1965., stoga bi se sukladno čl. 330. Zakona o prostornom uređenju i gradnji imala smatrati legalnom, budući da je izgrađena prije 15. veljače 1968.

Nadalje, iz obrazloženja prvostupanjskog i drugostupanjskog rješenja proizlazi da je prvostupanjsko tijelo utvrdilo da je dogradnja nezakonita zato što nije ucrtana u katastarskom operatu i zato što tužiteljica po pozivu tijela nije dostavila izvršni akt kojim se odobrava građenje.

Međutim, iz propisa koji reguliraju prostorno uređenje ne proizlazi da bi se građevine koje nisu ucrtane u katastarski operat imale smatrati nezakonito izgrađenima, a i sam Zakon o prostornom uređenju i gradnji uređuje postupak kojim se zakonito izgrađene zgrade koje do tada nisu bile upisane upisuju u katastarski operat, što ne bi bio slučaj da se one *a priori* smatraju nezakonitima. Nadalje, institut građevinske dozvole i iznimke kada se bez nje može graditi kroz prošlost su različito regulirani, pa je, osim što se, kako je već navedeno, prema čl. 330. Zakona o prostornom uređenju i gradnji sve građevine koje su izgrađene prije 15. veljače 1968. smatraju zakonitima, npr. Zakon o izgradnji objekata, NN 52/81 u čl. 27/1. t. 1., propisivao da građevinska dozvola nije potrebna za gradnju i rekonstrukciju postojećih građevina koje se grade izvan područja gradova i gradskih naselja, ako nemaju više od dvije etaže.

Stoga, prema mišljenju Suda, građevinski inspektor u postupku nadzora nije ovlašten naložiti uklanjanje svih građevina koje nisu ucrtane u katastarski operat i za koje vlasnik ili investitor ne raspolaže aktom kojim se odobrava građenje, već je građevinski inspektor dužan obrazložiti na temelju kojih je činjenica (način gradnje, starost materijala, izgled građevine i sl.) utvrdio da je građevina izgrađena bez akta kojim se odobrava građenje, bez kojega se u konkretnom slučaju građenju nije moglo pristupiti.

Presuda od 18. ožujka 2015.

(NE)UREDNA DOSTAVA U UPRAVNOM POSTUPKU (POTPIS DRUGOG ČLANA KUĆANSTVA KOD OSOBNE DOSTAVE), NA PRIMJERU PREDMETA PRIZNAVANJA STATUSA HRVATSKOG BRANITELJA, čl. 85. i 86. Zakona o općem upravnom postupku, NN 47/09

Presudom od 19. svibnja 2015. Upravni sud u Rijeci poništio je rješenje Ministarstva unutarnjih poslova od 30. prosinca 2014., predmet vratio tuženiku na ponovni postupak, a odbio je tužbeni zahtjev u dijelu kojim je zatraženo poništenje rješenja Ministarstva unutarnjih poslova, Policijske

uprave l.-s. od 23. listopada 2014. i vraćanje predmeta prvostupanjskom tijelu na ponovni postupak.

Prvostupanjskim rješenjem Ministarstva unutarnjih poslova, Policijske uprave l.-s., od 23. listopada 2014. odbačen je zahtjev tužitelja za priznavanje statusa hrvatskog branitelja iz Domovinskog rata kao pripadnika Ministarstva unutarnjih poslova.

Tuženik je rješenjem od 30. prosinca 2014. kao nepravodobnu odbacio tužiteljevu žalbu izjavljenu protiv prvostupanjskog rješenja. Kao razlog za svoju odluku tuženik je naveo da je prvostupanjsko rješenje tužitelju dostavljeno 29. listopada 2014., pa je posljednji dan za izjavljivanje žalbe bio 14. studenoga 2014., dok je žalba izjavljena 26. studenoga 2014., dakle nakon propisanog roka.

Tužitelj osporava zakonitost tuženikove odluke i tvrdi, u bitnome, da dostava prvostupanjskog rješenja nije obavljena sukladno pravilima o osobnoj dostavi, jer je to rješenje uručeno tužiteljevu ocu, dok se tužitelj sa sadržajem rješenja upoznao tek nakon povratka s bolničkog liječenja. Smatra da je na taj način tužitelj onemogućen da o njegovu zahtjevu bude meritorno odlučeno.

Tuženik u odgovoru na tužbu ostaje, u bitnome, kod navoda osporenog rješenja, dodaje da iz dostavnice nije moguće utvrditi je li dostava prvostupanjskog rješenja obavljena osobno tužitelju ili je umjesto njega pošiljku preuzeo netko od ukućana, ali je činjenica da je dostavnica potpisana i vraćena tuženiku. Tuženik predlaže da Sud odbije tužbeni zahtjev.

Odredbom čl. 109. Zakona o općem upravnom postupku, NN 47/09 (dalje: ZUP), propisano je da se žalba izjavljuje u roku od 15 dana od dostave prvostupanjskog rješenja, ako nije propisan duži rok (što ovdje nije slučaj). Prema čl. 114/1. ZUP-a, drugostupanjsko tijelo rješenjem će odbaciti nepravodobnu žalbu.

Uzevši u obzir da od dostave prvostupanjskog rješenja počinje teći neproduživi rok za žalbu, na spomenutu vrstu rješenja primjenjuju se odredbe o osobnoj dostavi, sadržane u čl. 85. ZUP-a. Dostava se obavlja osobno naslovljenoj osobi kad od obavljanja dostave počinje teći rok koji se ne može produžiti ili kad je takva dostava propisana (st. 1.). Kad se naslovljena osoba ne zatekne na mjestu dostave, dostavljač će u poštanskom sandučiću ili pretincu ili kod osobe zatečene na mjestu dostave ostaviti pisanu obavijest da u određeni dan i sat bude na mjestu dostave radi primanja pismena i gdje do toga dana sama može podići pismo (st. 2.). Ako dostavljač u naznačeno vrijeme ne pronade naslovljenu osobu ili ako ona odbije primiti pismo, dostavljač će ostaviti pismo u njezinu poštanskom sandučiću

ili pretincu ili, ako toga nema, na vratima ili drugom za primatelja vidljivom mjestu. Na dostavnici uz ostavljeno pismeno dostavljač će naznačiti razlog takve dostave, dan i sat kad je ostavio pismeno i potpisati se (st. 3.). Kad dostavljač prilikom pokušaja dostave sazna da postoje razlozi zbog kojih pismeno uopće nije moguće uručiti naslovljenoj osobi, pismeno će vratiti pošiljatelju uz naznaku razloga zbog kojih pismeno nije moguće dostaviti (st. 4.). Dostava se smatra obavljenom danom uručenja, odnosno danom kad je pismeno ostavljeno u poštanskom sandučiću ili pretincu ili, ako toga nema, na vratima ili drugom za primatelja vidljivom mjestu, osim ako stranka dokaže da iz opravdanih razloga nije mogla primiti pismeno (st. 5.).

Osobna dostava može biti obavljena ili osobno naslovniku ili ostavljanjem pismena primjenom normi čl. 85/2., 3. i 5. ZUP-a, a ne može se smatrati uredno obavljenom ako je na dostavnici potpis drugog člana kućanstva (za razliku od, primjerice, posredne dostave, regulirane u čl. 86. ZUP-a).

Prema stajalištu ustaljenome u sudskoj praksi i pravnoj teoriji, ako je dostava obavljena pogrešno, tako da je rješenje umjesto osobno stranci uručeno drugoj osobi, prilikom ocjene pravodobnosti žalbe potrebno je utvrditi kada je stranka stvarno primila to rješenje od osobe kojoj je rješenje pogrešno uručeno te se rok za žalbu računa od toga dana.

Stoga javnopravno tijelo, kada ne može sa sigurnošću utvrditi je li dostava obavljena osobno stranci (npr. usporedbom potpisa na podnescima stranke priležecima spisu predmeta upravnog postupka i potpisa na dostavnici, ili na drugi način), a očito je da nije obavljena primjenom odredbi čl. 85/2., 3. i 5. ZUP-a, može posegnuti ili za dodatnim utvrđivanjem urednosti dostave, eventualno i utvrđivanjem kada je stranka stvarno primila neuredno dostavljeno rješenje, ili, pak, može meritorno odlučiti o žalbi, s obzirom na to da spomenuta dvojba ne može ići na teret stranke.

Pri nespornoj činjenici da se u predmetnom slučaju ne može sa sigurnošću utvrditi je li dostava prvostupanjskog rješenja obavljena uredno, Sud utvrđuje da je odlukom tuženika da tužiteljevu žalbu odbaci kao nepravodobnu, koja se odluka temelji na utvrđenju uredne dostave prvostupanjskog rješenja, povrijeđen zakon na štetu tužitelja.

Presuda od 19. svibnja 2015.

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Conference

Local Government at a Glance

UDK 35.071.2(4)(057)

1. Introduction

The conference *Local Government at a Glance* was held within the frame of the COST Action Local Public Sector Reforms (LocRef). It was held in the Centre for Advanced Academic Studies (CAAS) of the University of Zagreb, situated in Dubrovnik, on 5–6 May 2015. Almost 100 scholars from 27 European countries covering a wide variety of disciplines met to discuss challenges and reforms of the local public sector. The conference was organized by Professor Ivan Koprić (Faculty of Law of the University of Zagreb and Institute of Public Administration, Zagreb, Croatia), Professor Sabine Kuhlmann, and Christian Schwab (Chair of Political Science, Public Administration and Organization II, University of Potsdam, Germany).

The event provided a platform for exchanging scientific experience and presentation of the latest research results as well as for preparing projects, publications, and research projects proposals. The conference is part of the four-year research project COST (European Cooperation in Science and Technology) Action – Local Public Sector Reforms: An International Comparison (LocRef), which will receive an estimated budget of €700,000 from the European Framework Program for Research and Innovation, Horizon 2020. The project is headed by professors Sabine Kuhlmann (University of Potsdam) and Geert Bouckaert (KU Leuven) and managed/coordinated by Christian Schwab (University of Potsdam). The success of the conference may also be quantified on the basis of its substantial contributions: more than 70 papers, book chapters, presentations and research outlines were uploaded to the project's homepage (<http://www.uni-potsdam.de/cost-locref/>).

2. The Project's Conceptual Approach

The starting point of the project was the realization that in European political sciences as well as in public administration studies, there has been remarkably little comparative research on reforms at the local level. Fragmented databases, the focus on single case studies and partly significant language barriers impede comparative studies. In consequence, the aim of the COST Action is to minimize any obstacles and to create a platform for comparative knowledge on local sector reforms.

The main objective is to answer the questions: Which approaches and effects of local public sector reform can be identified from an international comparative perspective? How can these be explained and what lessons can be drawn for policy-making?

In the past first two years of the Action, the researchers have focused on the question of which reforms have been implemented and what was their degree of intensity; in the upcoming year, they will focus on reform effects and their results. Another aim of the COST Action is to support the international exchange of young scientists. This is implemented by organising conference attendances, short-term visits to partner institutions (so-called Short Term Scientific Missions, STSM) as well as participation in PhD Training Schools (this year on the beautiful island of Spetses, Greece, 13–17 September 2015).

The network is divided into four working groups (WGs), which work on their respective research focus:

- WG I (External [Post-]NPM) analyses the relationship of public and private service provision regarding reform approaches inspired by the New Public Management (NPM) in different local fields. 'Post'-NPM signifies here that recent trends, especially questions concerning 're-municipalisation' of previously 'private' public tasks, are to be assessed. WG I is headed by professors Ivan Koprić (Chair, University of Zagreb, Croatia), Hellmut Wollmann (Co-Chair, Humboldt University, Berlin, Germany) and Gérard Marcou (Co-Chair, Sorbonne-Panthéon University I of Paris, France).
- WG II (Internal [Post-]NPM) scrutinizes the internal modernization of local public administrations. 'Classic' topics such as management by objectives/target steering, performance management, performance-orientated pay, internal re-organization processes, and budgeting and accounting systems are being looked at as well

as more recent ('Post-NPM') developments, e.g. the dismantling of performance measurement systems in some countries or new developments regarding Human Resource Management. WG II is led by professors Riccardo Mussari (Chair, University of Siena, Italy), Emil Turc (Co-Chair, University of Aix-Marseille, France) and Hilde Bjørnæ (Co-Chair, University of Tromsø, Norway).

- WG III (Territorial/Functional Re-Scaling) is concerned with the topics of territorial reforms, inter-municipal cooperation, and functional reforms. The functional and the territorial dimension are equal objects of research of WG III as there is a close relationship between territorial consolidation and functional decentralization. Professor Nikos Hlepas (Chair, University of Athens, Greece) leads WG III together with professors Ellen Wayenberg (Co-Chair, University of Ghent, Belgium) and Reto Steiner (Co-Chair, University of Bern, Switzerland).
- WG IV (Democratic Renewal) examines reforms of local democracy regarding the introduction of instruments of direct democracy and participation. Specific topics are public forums, local referenda, direct election of local elected officials, consultations, youth councils/citizens' councils, and e-democracy. WG IV is led by professors Colin Copus (Chair, University of Leicester, United Kingdom), Anders Lidström (Co-Chair, University of Umeå, Sweden) and Bas Denters (Co-Chair, University of Twente, the Netherlands).

3. Working Groups' Activities in Dubrovnik

In addition to the general themes assigned to all the WGs, each WG had specified topic areas on the agenda depending on their respective methodological/conceptual focus. Before the meetings of individual WGs (six parallel sessions in two days) started, the local organizer, Professor Ivan Koprić (University of Zagreb, Faculty of Law), welcomed the participants together with Professor Sabine Kuhlmann (University of Potsdam, chair of the Action). Professor Koprić delivered an opening keynote speech expanding on 'experiences, problems, and prospects of local governments in the Western Balkan region'. The second keynote speech was delivered by Boris Milošević (Croatian Assistant Minister of Public Administration), focusing on 'problems of regionalization in Croatia'. Concluding

the opening plenary session, professors Hubert Heinelt (University of Darmstadt, Germany) and Annick Magnier (University of Florence, Italy) presented the contents and progress of the joint COST-POLLEADER survey project 'The European Mayor and Local Public Sector Reforms' to the audience. Inspired by these presentations, WGs started their work, and their results are concisely outlined in the following sections.

Working Group I

In order to analyse the 'external' (re)organization of the public or rather the municipal sector, WG I examines the institutionalization of public infrastructure services (e.g. in Germany, the so-called 'Daseinsvorsorge'; including water and energy supply, waste disposal, public transport, etc.) as well as social services (such as day care, youth welfare, council housing) in European countries. The studies aim to record institutional changes regarding public and social services over time, especially administrative modernization inspired by 'neo-liberal' policy concepts and the New Public Management since the 1980s – when there was a shift (mainly) from the public/municipal sector to the private sector. Focusing on the most recent developments, the questions of predominant interest here are whether, in which areas, to what extent, and why 're-municipalisation' of public and social services can be found.

At the conference in Dubrovnik, several written contributions were provided and discussed in order to finalize the first book of WG I, with the working title 'Reforming Local Service Delivery in Europe: From Privatization to Re-municipalisation?' edited by Hellmut Wollmann, Ivan Koprić and Gérard Marcou (to be published in 2016 in the Palgrave 'Governance and Public Management' series). Some of the chapters in this book deal with developments and the status quo of infrastructural and social services in individual countries, others are in-depth 'policy area reports' on specific services (e.g. water supply). Some are comparing countries and others are 'cross-cutting papers' with comprehensive topics (such as the effects of EU standards on municipal service provision). The range of countries examined by WG I participants included not only 'old' EU member states and Central Eastern European EU accession countries but also Turkey, Israel, Russia, and China. Several papers will be published in a special issue of the journal *Croatian and Comparative Public Administration* in autumn 2015.

As the contributions have revealed, this exceptionally wide and diverse sample of countries offers a promising potential for analysis and comparison. On the one hand, it allows examining institutional changes triggered

by neo-liberal policy change and market liberalization, especially the different varieties of ‘material’, organizational, and functional ‘privatization’, against the backdrop of individual ‘starting conditions’ in the 1980s and 1990s respectively. On the other hand, this wide range of countries opens up possibilities of analysis; to pursue the question, whether, to what extent, and why there are different tendencies towards ‘re-municipalisation’ in individual country-specific or policy area specific contexts. However, the papers contributed in Dubrovnik also show that the abundance of relevant information and research results still lack extensive, comparative, systemic and general statements and interpretations.

This is especially true when it comes to evaluative questions (‘does it make a difference’). For this reason, WG I has recently published a call for contributions to their second book on ‘Evaluation Studies about Local Public Service Delivery Reforms (working title)’ (edited by Ivan Koprić, Hellmut Wollmann and Gérard Marcou). In October 2015, WG I will meet (just as all the other WGs) at a workshop organized by Professor Yüksel Demirkaya at Marmara University, Istanbul, Turkey. The working session in Istanbul serves the purpose of discussing the versions of the written contributions provided so far, and of fostering the second WGI book publication. The book is also expected to be published by Palgrave, ‘Governance and Public Management’ series.

Working Group II

WG II is focused on answering questions about the scope and scale of implementation of internal administrative reforms and on delivering explanations for variations, reform drivers and actors, as well as on the evaluation of effects of management-oriented reforms at the local level in Europe. In Dubrovnik, 20 members of WG II from 14 countries discussed and presented their recent research on the common ‘long-term research projects’ of the WG.

For those long-term research projects, 11 focus topics have been identified which will set the agenda for the next two years. These topics are: ‘New Strategies, Mission, Policies’, ‘Performance Management’, ‘Internal Control, Finance, Accounting, Fiscal Reform’, ‘Benchmarking and Evaluation’, ‘Restructuring, Internal Reorganization, Territorialisation, Recentralization’, ‘Reengineering Streamlining, Rationalization, Cost-Reduction, Lean Management’, ‘Redesign, One-Stop-Shops, Process Innovation’, ‘Open Government: The Insiders’ View’, ‘Customer Focus, Co-Production, Co-Design, Co-Evaluation’, ‘Modern HRM, Values, Ethics, Informal Organization Features’, and ‘Performance-Related Pay’.

Some of the projects had already materialized substantial output that was presented in Dubrovnik. For example, one research group broached the subject of different aspects of reforms of internal administration structures and management changes in European local government – flat vs. steep hierarchies, political vs. administrative management types or aspects of inter-organizational and intra-organizational coordination. This quickly revealed that there is a wide variation concerning these reform areas among individual European countries. While there is a wide variation of reforms in Germany due to its federalist system, there is naturally less variation in Norway. In the latter case, the focus lies on a fundamental change of the municipalities' organizational structures and, simultaneously, a continuous externalization of municipal tasks. Contrarily, Hungary deals with the consequences of national re-centralization policies, which withdrew a multitude of tasks from the municipalities and hence led to them occasionally being called 'empty nests'. Accordingly, Hungary is primarily interesting from the perspective of the administrative sciences when one is studying organizational reactions which followed these measures or which are supposed to be following them.

Another team of researchers scrutinizes performance budgeting in local governments in 10 European countries. The researchers address the extent to which performance information is incorporated in 'good practice' by European local governments. The current output of this group will be presented at the annual conference of the European Group for Public Administration (EGPA) in Toulouse, France, in August 2015. At the same conference, the research team focusing on 'Joined-up local governments? Restructuring and reorganizing internal management' will also present intermediate results.

Other long-term projects that were discussed focused on 'cutback strategies in European local governments: between cuts and rationalization', 'benchmarking management approaches for public services based on performance criteria' and 'strategic planning in local public administration: a tool for public management reform'.

The WG will meet again at Marmara University, Istanbul, in order to pursue the planned projects. The publication strategy of WG II aims first and foremost to publish individual articles in peer-reviewed journals. All results of the long-term research projects will also be published in a volume in the Palgrave 'Governance and Public Management' series (edited by Hilde Bjørnæ, Riccardo Mussari, and Emil Turc).

Working Group III

There are three main topics on the agenda of WG III: developments in the area of municipal territorial reforms; debates about inter-municipal cooperation as an alternative to and extension of territorial reforms; and the delegation of tasks to local units due to decentralization. The variation of European local structures and their specific reform approaches were reflected in the presentations of the respective countries.

In all countries, the debates about territorial reforms and/or inter-municipal cooperation reveal the intention to create large-scale local structures or to use cooperation as functional equivalents. However, while the Netherlands is already discussing a minimum municipality size of 100,000 inhabitants, other countries, such as Slovakia, limit themselves primarily to the strategies of increased inter-municipal cooperation while keeping small-scale municipality structures. Differences regarding territorial profiles may generally be ascribed to specific actor constellations and the status of municipalities in the administrative macro-system of the respective country. At the same time, it has become evident that territorial reforms and inter-municipal cooperation efforts are not exclusive but are often combined. This may be exemplified by the Portuguese case, where units at the local level have been fused and at the same time inter-municipal cooperation has been expanded in order to transfer further state tasks to inter-municipal units.

Furthermore, the evaluation of group-internal expert surveys showed that countries with large municipal territorial structures do not use inter-municipal cooperation to a lesser extent than countries with small municipal units. Moreover, experiences of individual countries with functional reforms demonstrated that an unchecked delegation of tasks without considering municipal performance capabilities and without the respective task specifications does not meet the expectations of decentralization processes. Decentralization often leads to inter-municipal cooperation, such as in the case of Iceland, which suggests that individual local units do not have the necessary size to execute tasks to an extent sufficient to generate the requisite case numbers.

Consequently, the WG III workshops in Dubrovnik dealt with two major topics: 'inter-municipal cooperation' and 'sub-municipal entities, re-scaling of functions and territories'. WG III therefore plans to publish special issues of two relevant journals: *Local Government Studies* (LGS) and *International Review of Administrative Sciences* (IRAS), in 2016 and 2017 respectively. Future research and work of WG III in the area of territori-

al and functional reforms will additionally concentrate on reform effects in an international comparison in order to generate application-oriented results that may be applied in practice. This aspect, together with the further work on the special issue contributions, will be deepened at the next meeting of WG III in Istanbul in October 2015.

Working Group IV

WG IV studies and evaluates local democracy reforms in Europe. The focuses of its research are political structures and processes of representative and direct democracy, and civic commitment and developments of participatory democracy. These reforms and their different characteristics are analysed from a comparative perspective. Furthermore, the extent of reform effects of local democracy are to be analysed and the most important institutional and procedural reform contents are to be identified. For example, the WG discussed how post-socialist systems manage the transition to democracy and the effects it has on civic commitment, the creation of a new political culture or the general perception of the state's activities. However, new developments in 'established' democracies were also discussed. For example, Sweden has merely had a marginal introduction of forms of participation such as non-binding referenda. In contrast, in other Western European countries democratic renewals have been more profound, as the comprehensive direct election of mayors exemplifies.

At Dubrovnik, the WG IV agenda was fourfold. First, the availability of different data sets on democratic renewal was discussed (dataset review), especially with regard to its applicability to WG IV's research and the conduct of an expert survey on 'comparing democratic renewal in European local government: giving citizens more say in local government'? The second session was dedicated to the topic of 'political leadership, accountability and representative democracy', followed by a session on 'the big society and democratic renewal', where the implications for local leadership and participatory initiatives in general were discussed. More specific topics like 'participatory budgeting at the local level', were also on the agenda. In the final session, the focus shifted to the effects of direct and indirect election of the local political leader in presidential and semi-presidential systems. WG IV will publish a book exploring the direction, rationale, mechanisms, policy implications, and arguments behind democratic renewal in Europe, to be published by Palgrave. Further, a journal special issue on democratic renewal is in preparation.

3. LocRef Projects: POLLEADER and Local Authority Index (LAI)

During the first day of the conference, two meetings took place dealing with projects that are directly linked to the common 'LocRef' cause.

(1) POLLEADER-COST (Political Leaders in European Cities) is a survey project coordinated by the University of Florence and carried out in 29 European countries. The project deals with the career and the interpretation of the role of the European mayor, and on the mayors' choices in local policies. In this context, a questionnaire was sent to all mayors in charge of municipalities with over 10,000 inhabitants in the participating 29 European countries. The implementation of the survey started in 2014 and finished in 2015, hence the survey results will be evaluated within cross-country research groups from 2015 onwards. The project is based on the first round of the survey 'Political Leaders in European Cities', that was developed more than ten years ago. The questionnaire is accessible via the download section of the 'LocRef' homepage <http://www.uni-potsdam.de/cost-locref/>. The results of the survey project will be published by Palgrave in the 'Governance and Public Management' series with the (working) title: 'The European Mayor II: Political Leaders in the Changing Context of Local Democracy', edited by Hubert Heinelt, Annick Magnier, and Herwig Reynard (to be published in 2016).

The aim of the Local Authority Index (LAI) research project is to create an index that can be used to analyse and report changes in the degree of decentralization of the countries within the European Union. Variables used to construct the Local Authority Index are institutional depth, policy scope, fiscal autonomy, borrowing autonomy, organizational autonomy, and self-rule. The project leader is Professor Andreas Ladner of the Institut des hautes études en administration publique (IDHEAP), University of Lausanne (Switzerland) in close cooperation with Professor Harald Baldersheim of the University of Oslo (Norway). The countries observed in this study are all 28 EU member states together with the four EFTA countries (Norway, Iceland, Switzerland, and Liechtenstein). Additionally, Albania, Bosnia and Herzegovina, Macedonia, Montenegro, Georgia, and Ukraine will also be included. The years to be covered are 1990 to 2014. The project is conducted in close cooperation with 'LocRef'. The experts taking part in the Action not only guarantee the quality of the data but also further use of the data in scientific research.

Relying on the COST 'LocRef' network, researchers will work with country group coordinators. The country group coordinators are responsible for the coding of the different countries assigned to their group. In most cases, they will be able to do it on their own, in some cases they may have to rely on country experts. Two experts from the COST Action serve as external inspectors for the country profiles and coding of the countries. A final meeting with presentation of the results will be organized within the framework of a future COST meeting.

4. Authors' Meeting (day 2)

The first half of the second conference day was primarily dedicated to discussion of the 18 chapters of the 'Action level' book, *Local Public Sector Reforms in Times of Crisis: National Trajectories and International Comparisons*. The contributions to this book stem from the authors from all the WGs. The book is edited by Sabine Kuhlmann and Geert Bouckaert and will be published in 2016 by Palgrave in the 'Governance and Public Management' series. In two subsequent parallel sessions, the conference participants were free to choose which session to attend. Moreover, a discussant was assigned to each chapter. The discussants, in cooperation with the audience, gave fruitful comments on how to improve the individual chapters.

Content wise, the book focuses on key topics from each WG. Part I, which is thematically allocated at WG III, deals with the topic of 're-scaling local governance: amalgamation, cooperation, territorial consolidation'. For instance, the Norwegian team (Askim, Klausen, Vabo, and Bjurstrøm,) scrutinizes what causes municipal amalgamations reform, whereas the Dutch/Belgian team (Broekema, Steen, and Wayenberg) look for facilitators for municipal amalgamations. 'Does inter-municipal cooperation lead to territorial consolidation?' is a question discussed by another team (Franzke, Klimovský, and Pinterič). For their comparative study, the authors of this chapter compared three country cases (Germany, Slovenia, and Slovakia).

The second part of the book deals with topics related to WG II. The general topic is 'Managerial reforms: From Weberian bureaucracy to performance management'. Thematic example is the incentivization of public employees in performance-related pay systems in European local governments (Proeller, Meier, Vogel, Mussari, Casale, Turc, and Guenoun) with

subsections on performance appraisal and performance-related salaries. While there are individual bonus payments for people whose performance is being evaluated compulsorily in Italy, in France there is a (quite controversial) dual system of performance-related salaries. In this system, bonus payments are made when a person takes responsibility for certain tasks within the organizational unit as well as when certain targets are met. The German team (Schwab and Salm) has another approach to the reform area of human resource management. In scrutinizing 'best practice cities' in three European countries, they ask which approaches and effects of HRM reform can be identified in cities of (supposed) excellence; whether there are major commonalities or differences; and if there is a general reform trend from a cross-country comparative perspective.

Part III of the book deals with re-organizing local service delivery: from government to governance, i.e. it deals with institutional changes of the central-local relationship and competences of service delivery, exemplified within several policy fields. Those fields include, among others, the rescaling of planning power (Getimis), waste management (Torsteinsen and Van Genugten), social services (Wollmann) and childcare (Teles, Hlepas, Kettunen, Navarro, Richter, and MacCarthaigh). The last chapter asks, for example, how the crisis has affected local governments, which other factors had a role, and what kinds of change mechanisms can be identified. In other words, it explores the changes in childcare governance and discusses their consequences.

The last part (IV) of the book looks at local participatory reforms, political leaders, and citizens. The chapters in this part deal, among other topics, with deliberative participatory instruments (Kersting, Gasparikova, Krenjova, and Iglesias), direct election of mayors (Copus, Iglesias, Hacek, Illner, and Lidström), citizens' involvement (Vetter, Denters, Kersting, and Klimovský), the role of the councillors (Lidström, Baldersheim, Klimovsky Hlynsdóttir, Copus, and Kettunen), and the democratic reformation of local governments in times of crisis (Denters, Ladner, Mouritzen, and Rose). In the latter chapter, the questions of citizens' satisfaction with their municipality, their value orientations, and thoughts about what constitutes good local governance are addressed. Further, they give insight into the question whether citizens with different value priorities evaluate local democracy in their municipality in the same ways.

5. Summary and Outlook

The final plenary session of all WGs started with a panel discussion. Moderated by Professor Vedran Đulabić (University of Zagreb, Croatia), the main theme was 'Contested future of local government? Main challenges for cities and for comparative local government research'. Panel discussants were professors Bas Denters (University of Twente, the Netherlands), Geert Bouckaert (KU Leuven, Belgium), Angelika Vetter (University of Stuttgart, Germany), Carmen Navarro (University of Madrid, Spain), and Ivan Koprić (University of Zagreb, Croatia). The discussion focused on questions regarding evidence from research and comparison (e.g., is austerity a trigger or inhibitor of local government reforms?), policy implications (e.g., which strategies can local governments pursue to (re)gain autonomy and is this generally desirable?), and further research (do we need more collaboration/exchange between various disciplines?).

After the panel discussion, Professor Riccardo Mussari (University of Siena, Italy) looked back at the impressions and results of the past PhD Training School 'Re-thinking Politics, Management and Governance in the Post-NPM Era' held in Siena (29 September – 2 October 2014), where he was local organizer. In drawing the participants' attention to the future, Professor Nikos Hlepas (University of Athens, Greece) introduced the upcoming PhD Training School, 'Innovation in Local Government', which will take place on the wonderful island of Spetses near Athens (13–17 September 2015). As in the past two years, 25 students will have the opportunity to participate in this year's 'LocRef' Training School. The students will be supported with a grant for which they can officially apply.

Subsequent to the announcement of the next Training School, Professor Yüksel Demirkaya proudly introduced the next venue of the joint WG meetings of 'LocRef' participants: Marmara University in Istanbul. On 22–23 October 2015, all the Working Groups will meet there in order to foster their joint publication projects. The meeting will be preceded by the Strategic Public Management Symposium (SPMS, 20–21 October 2015). 'LocRef' members are kindly invited to participate.

The next 'LocRef' conference will take place at the Center of Competence for Public Management (KPM) at the University of Bern. From 31 March to 1 April, 'LocRef' researchers will meet in the Swiss capital city. The local organizer will be Professor Reto Steiner (University of Bern),

who already impressed the participants in Dubrovnik with a video from the venue.

Finally, Professor Sabine Kuhlmann (University of Potsdam) closed the conference and thanked all the participants for their fruitful contributions and discussions. She especially thanked the local organizer Professor Ivan Koprić and his team for the splendid organization of the conference. She also pointed to the very near future, when some of the researchers will meet at the annual EGPA (European Group for Public Administration) conference in Toulouse (26–28 August 2015), or at the joint meeting of all WGs at the latest.

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Godišnja konferencija Europske grupacije za javnu upravu

UDK 35.07(4)(047)

Godišnja konferencija Europske grupacije za javnu upravu (EGPA) održana je u Toulouseu 26.–28. kolovoza 2015.¹ EGPA je europski ogranak Međunarodnog instituta za upravne znanosti (*International Institute of Administrative Sciences – IIAS*),² a osnovana je s ciljem poticanja suradnje i umrežavanja znanstvenika i praktičara s područja javne uprave. Godišnja konferencija predstavlja jedan od najvažnijih foruma za razmjenu ideja znanstvenika sa šireg područja javne uprave. Prijavljenih sudionika bilo je 403 iz 43 zemlje, što potvrđuje da je konferencija zanimljiva i znanstvenicima izvan europskih granica.

Lokalni organizator konferencije bilo je Science Po Sveučilišta Toulouse. Riječ je o sastavnici Sveučilišta u Toulouseu, koje je ujedno treće najveće sveučilište u Francuskoj, a posvećena je obrazovanju za javnu upravu s više od 1700 studenata.³

Ovogodišnja konferencija bila je posvećena obilježavanju 40. godišnjice postojanja EGPA-e, što su naglasili i prof. dr. sc. Eduardo Ongara, predsjednik EGPA-e, te prof. dr. sc. Geert Bouckaert, predsjednika IIAS-a. Uz lokalne organizatore prof. dr. sc. Philippea Raimbaulta i prof. dr. sc. Jean-Michela Eymeri-Douzansa, uvodna plenarna izlaganja održali su H. E. Pierre Vimont, ambasador Republike Francuske, i prof. dr. sc. Per Laegreid sa Sveučilišta Bergen u Norveškoj. Izlaganja su bila posvećena pitanju aktualnih kriza u Europi i svijetu te ulozi javne uprave u njihovu

¹ <http://www.egpa-conference2015.org/>

² <http://www.iias-iisa.org/>

³ <http://www.sciencespo-toulouse.fr/>

rješavanju. Profesor Laegreid pritom je posebno istaknuo nužnost osiguranja odgovornosti javne uprave, ali i jačanja njezina legitimiteta.

Rad konferencije organiziran je po radnim skupinama, kojih u okviru EGPA-e ima 18, a odnose se na različita pitanja, počevši do elektroničke uprave, upravljanja učinkom, reforme službeničkog sustava, regionalne i lokalne samouprave do prava i javne uprave te inovacija u javnoj upravi, itd. Koncept EGPA-e svodi se na sudjelovanje sudionika u radu samo jedne do dviju radnih skupina kako bi se omogućilo umrežavanje i aktivna rasprava. Svaka radna skupina održala je najmanje šest radnih sesija u okviru kojih su sudionici održali vlastita izlaganja te raspravljali s ostalim članovima skupina. U radu radne skupine za upravljanje učinkom u javnom sektoru te radne skupine za strateški menadžment u javnom sektoru sudjelovala je dr. sc. Romea Manojlović s Pravnog fakulteta Sveučilišta u Zagrebu.

Uz glavne aktivnosti konferencije, tj. rad radnih skupina, na ovogodišnjoj konferenciji održano je i niz popratnih sesija. Tako je samoj konferenciji prethodila dvodnevna radionica za doktorske studente. Na radionici je sudjelovalo dvadesetak doktorskih studenata koji su dobili priliku izložiti nacрте svojih disertacije te dobiti povratne komentare kako kolega tako i profesora. Uz to, doktorskim studentima plenarno izlaganje o europeizaciji istraživanja o javnoj upravi održala je prof. dr. sc. Tiina Randma-Liiv s Tehničkog sveučilišta u Tallinu. Studenti su dobili i savjete o načinu i mogućnosti objave radova u afirmiranim međunarodnim časopisima.

Budući da je službeni jezik EGPA-e, uz engleski, i francuski, poseban naglasak stavljen je na francuski seminar u okviru kojega su sudionici dobili mogućnost izlagati radove kao i raspravljati na francuskom jeziku, a održana je i posebna svečanost posvećena 40. godišnjici EGPA-e.

Osim toga, održan je i sastanak inicijative PaBabela. PaBabel okuplja urednike časopisa specijaliziranih za javnu upravu koji se izdaju, uz engleski, na nekome od drugih europskih jezika. Osim toga, PaBabel predstavlja i važnu bazu podataka u koje je indeksiran i časopis Hrvatska i komparativna javna uprava. Na ovogodišnjem sastanku PaBabela raspravljalo se o mogućnostima unaprjeđenja baze kao i širenju vidljivosti časopisa koji su u njoj indeksirani te je istaknuta mogućnost uvođenja predstavljanja svakog časopisa na službenom portalu IIAS-a.

I ovogodišnja konferencija EGPA-e pokazala je visoku kvalitetu te potvrdila svoj značaj i ulogu u znanstvenom području javne uprave. Na ceremoniji zatvaranja dodijeljene su nagrade za najbolji znanstveni rad

2014. kao i za najbolji doktorski rad predstavljen na prošlogodišnjoj konferenciji te je najavljena konferencija 2016. koja će se održati u Utrechu, Nizozemska.

*Romea Manojlović**

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Konferencija *Improving Performance of Public Administration: Current Experiences and Future Perspectives*

UDK 35.071(497)(047)

U organizaciji mreže Think for Europe (TEN) 9.–10. rujna 2015. održana je u Beogradu regionalna konferencija posvećena pitanju povećanja učinkovitosti javne uprave u zemljama jugoistočne Europe pod nazivom *Improving Performance of Public Administration: Current Experiences and Future Perspectives*.

Mreža Think for Europe (TEN)¹ u svom sastavu obuhvaća tri nevladine organizacije: Centar za europske politike (CEP) iz Beograda, Institut alternativa iz Podgorice te Europski politički institut iz Skopja, a osnovana je jačanja regionalne suradnje u području istraživanja javnih politika u zemljama jugoistočne Europe koje se nalaze u različitim fazama pristupanja Europskoj uniji. Jedan od temeljnih zadataka mreže je jačanje politike koja se temelji na dokazima (*evidence based policy making*) te osiguranje da se politike koje se donose tijekom procesa pristupanja EU, kao i domaće javne politike, evaluiraju na odgovarajući način i da se dosljedno prati njihova implementacija.

Ovogodišnja konferencija okupila je 70-ak sudionika, teoretičara, ali većim dijelom i praktičara iz zemalja zapadnog Balkana. Poseban je naglasak stavila na povezivanje evaluacije javnih politika i revizije učinka. U tom kontekstu TEN je pripremio studiju *Revizija učinka i evaluacija javnih politika u zemljama zapadnog Balkana: na istim ili paralelnim kolosijecima?*. Autorice studije su Milena Lazarević, dr. sc. Simonida Kacarska i dr. sc.

¹ <http://www.ten.europeanpolicy.org/about-ten/ten-members.html>

Jovana Marović. Studija je predstavljena na konferenciji, a njezin konačni oblik može se očekivati u listopadu ili studenom 2015.

Osim organizatora, konferenciju su otvorili i predsjednik Ureda za državnu reviziju Srbije Radoslav Sretenović te voditeljica pregovara Srbije sa EU Tanja Mišćević. Prvi dan konferencije održao se u obliku plenarnih izlaganja na kojima se raspravljalo o novoizrađenoj studiji TEN-a te su prikazana iskustva državnih revizija u provođenju revizija učinkovitosti. Posljednji panel dana bio je posvećen utjecaju EU na proces mjerenja učinka i općenito evaluacije javnih politika u ovim zemljama te je zaključeno da je upravo EU glavni čimbenik pokretanja tog procesa.

Drugi dan konferencije odvijao se u tri paralelne sesije u kojima su tri do četiri izlagača prezentirala svoje radove nakon čega je uslijedila rasprava. Zaključci i preporuke svake radne skupine su zatim predstavljeni na zaključnoj, plenarnoj, sesiji.

Prva radna skupina se bavila pitanjem je li evaluacija javnih politika zaista bitna i potrebna te što se njome dobiva. Izlaganja, u kojima su prikazana iskustva Poljske, Mađarske, Slovenije i Makedonije pokazala su njezinu važnost, ali je istaknuta i potreba uključivanja šireg broja dionika, u prvom redu šire javnosti, u proces evaluacije i postavljanja ciljeva.

Druga radna skupina se bavila učinkom i njegovim povećanjem. U okviru ove radne skupine rad pod nazivom *From traditional models of accountability to accountability for performance: Inter-sector comparison in Croatian public administration* predstavile su doc. dr. sc. Goranka Lalić Novak, dr. sc. Romea Manojlović i dr. sc. Jasmina Džinić sa Pravnog fakulteta Sveučilišta u Zagrebu. Ova radna skupina bavila se pitanjem mogućnosti uvođenja odgovornosti za učinak u tranzicijske zemlje te povećanjem učinkovitosti pojedinačnih službenika i reformom službeničkog sustava.

Treća radna skupina bila je posvećena poboljšanju procesa stvaranju javnih politika te su predstavljeni radovi koji su opisali sustav revizije učinka u Velikoj Britaniji, ali i način upotrebe indikatora učinka u Rumunjskoj i Kosovu.

Konferencija je upozorila na slične probleme s kojima se susreću ne samo zemlje kandidatkinje za članstvo u EU već i nove države članice te na važnost razmjene iskustava i dobre prakse.

Romea Manojlović*

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Deveti Forum za javnu upravu *Regulacija, uprava i gospodarstvo: uloga države, institucija i propisa u poticanju gospodarskog razvoja*

UDK 351.82(047)

Dana 10. lipnja 2015. u organizaciji Zaklade Friedrich Ebert i Instituta za javnu upravu u hotelu Dubrovnik u Zagrebu održan je deveti Forum za javnu upravu. Tema Foruma, koji je okupio više desetaka članova akademske zajednice, upravnih praktičara i predstavnika nevladinih organizacija, bila je *Regulacija, uprava i gospodarstvo: uloga države, institucija i propisa u poticanju gospodarskog razvoja*. U prvom dijelu Foruma izlaganja su imala tri uvodničara. Prvo izlaganje održao je prof. dr. sc. Mladen Vedriš s Pravnog fakulteta Sveučilišta u Zagrebu, drugo izlaganje doc. dr. sc. Anamarija Musa, povjerenica za informiranje, te treće izlaganje doc. dr. sc. Frane Staničić s Pravnog fakulteta Sveučilišta u Zagrebu. Forum je moderirala Tamara Puhovski iz Ministarstva vanjskih i europskih poslova.

U ime Zaklade Friedrich Ebert prisutne je pozdravio prof. dr. sc. Mladen Vedriš koji je tom prigodom upozorio na važnost toga što se (ne)čini kako bi zakoni i javna uprava (i teritorijalni ustroj) bili istinska infrastruktura ekonomskog razvoja. Upozorio je da je Hrvatska na rang-ljestvici konkurentnosti razvijenih zemalja na 58. mjestu ove godine, što je gotovo jednako kao i prošle godine kad smo bili na 59. mjestu, dok se po stupnju uspješnosti unutar EU, od mogućih pet kategorija, nalazimo u pretposljednjoj, četvrtoj kategoriji (peta je kaznena u kojoj se zbog prekomjernog deficita primjenjuju određene kaznene mjere). Kao uzroke takvog stanja u Hrvatskoj naveo je da je BDP realno manji 13% nakon krize te da je značajno opala industrijska proizvodnja, promet u trgovini i građevinarstvo.

Efikasnost vlade i javnog sektora u Hrvatskoj manja je nego u Španjolskoj i Portugalu, zemljama koje su unutar EU percipirane kao one koje su u problemima. Kapacitet španjolske i portugalske javne uprave je veći i lakše može odgovoriti na aktualne probleme negoli hrvatska javna uprava, zbog čega je očito da je nužna njezina reforma. Uprava mora biti orijentirana prema poslovanju poduzeća te omogućiti komunikaciju s tijelima javne vlasti, kako na središnjoj tako i na lokalnoj razini. Profesor Vedriš je završno jasno poručio da je osnovni problem stanja u Hrvatskoj nečinjenje: zadovoljavamo se samo s konstatiranjem problema koji se sve više nagomilavaju.

Doc. dr. sc. Anamarija Musa istaknula je da u Hrvatskoj institucije i zakoni ne funkcioniraju na zadovoljavajući način, što rezultira nedostatkom povjerenja građana u njih. Upozorila je na povezanost između bogatstva društva i kvalitete okvira institucija (države). Naglasila je da su sve zemlje OECD-a od kraja 1980-ih započele s regulacijskom reformom u tri ključna područja: deregulacija odnosno smanjivanje količine propisa, kvaliteta same regulacije te kvaliteta institucija uključenih u proces regulacije. U Hrvatskoj su određeni učinci politike bolje regulacije vidljivi, međutim, potrebno je još puno raditi na tome uz puno poštovanje načela otvorenosti, transparentnosti i participacije. Kao primjer istaknula je da u Hrvatskoj nema nikoga tko se sustavno bavi analizom propisa.

Doc. dr. sc. Frane Staničić govorio je o inspekcijskom nadzoru i njegovoj ulozi u ostvarivanju kvalitetne primjene zakona odnosno osiguranju jednakih pravila igre za sve subjekte. Naglasio je da regulativa može biti dobra ili loša, međutim da se zakone mora primjenjivati bez obzira na to što se može govoriti o njihovim manjkavostima. Upozorio je na niz problema koji postoje u provedbi inspekcijskog nadzora. Inspekcijski nadzor nije kvalitetno ustrojen te stoga ne može jamčiti provedbu zakona, zaštitu potrošača, zaštitu tržišnog natjecanja, odnosno ne može jamčiti pravilno funkcioniranje tržišta. Također, inspektori ni regulatori nisu skloni davati nova rješenja u primjeni zakona, a trebali bi gospodarstvenicima savjetovati kako unaprijediti procese rada. Istaknuo je i da se inspekcijski nadzor treba provoditi kontinuirano te da na nj treba gledati ne samo kao na način na koji se osigurava provedba zakona već i kao na mjeru kojom se osigurava pomoć poduzetnicima da unaprijede svoje procese rada. U Hrvatskoj je vrlo čest problem to što pravni okvir nije jasan i nedvosmislen, zbog čega se subjekti nadzora znaju naći u nezgodnom položaju, a jednako tako se pojavljuju i različita tumačenja bilo regulatora bilo inspektora. Staničić je završno naveo mjere koje je potrebno provesti da bi se sustav nadzora u Hrvatskoj poboljšao. Kao prvo, pravni okvir mora biti sustavan.

Ne smije se više dogoditi da se ne zna tko je nadležan odnosno tko ima kakve ovlasti. Drugo, inspekcijski nadzor moraju provoditi osobe koje su kompetentne. Treće, inspekcijski nadzor morao bi rezultirati zakonodavnim promjenama jer nije svaka regulativa adekvatna i to bi se isto tako trebalo utvrditi u provođenju nadzora. Četvrto, rezultati inspekcijskog nadzora moraju biti javno objavljeni kako bi javnost znala tko krši pravila igre, ali i kako bi se drugi mogli uskladiti sa zakonom. Potrebna je međusobna suradnja onih koji obavljaju nadzor i subjekata nadzora. Subjekti nadzora trebali bi dobivati od onih koji ih nadziru pomoć i upute da bi mogli svoje poslovanje uskladiti sa zakonom.

U raspravi koja je uslijedila nakon izlaganja uvodničara sudjelovalo je više diskutanata, kako iz akademske zajednice tako i upravnih praktičara. Istaknut je problem odgađanja provođenja nužnih reformi od strane vlasti zadnjih petnaest godina zbog nedostatka političke volje da se suoči s realnošću. Zaključeno je da se u Hrvatskoj kvaliteta javnog sektora mora znatno podići jer je to *condicio sine qua non* efikasnosti privatnog sektora. Ovaj Forum još je jednom pokazao nužnost povezivanja znanstvenog, stručnog i praktičnog pristupa bavljenju javnom upravom te se pokazao pravom platformom za povezivanje različitih dionika i otvaranje važnih pitanja za javnu upravu i njezin budući razvoj.

Teo Giljević*

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Summer School

Challenges in Public Administration – Transformation for the Future

UDK 35.071.2(047)

Intensive programme/summer school *Challenges in Public Administration – Transformation for the Future* was organised at the Faculty of Administration, University of Ljubljana from 16th to 28th August 2015, with the active involvement of seven universities: University of Iceland (Iceland), Lillehammer University College (Norway), Matej Bel University (Slovakia), University of Zagreb (Croatia), Vilnius Gediminas Technical University (Lithuania), Tallinn University of Technology (Estonia) and University of Ljubljana, Faculty of Administration (Slovenia) acting as a project promoter. The delivery of the programme was co-financed by EEA & Norway Grants project SI04-0038 *Challenges in Public Administration – Transformation for the Future*. This was the third edition of the intensive programme series titled *Challenges in Public Administration*, while the first two editions (2013 and 2014), titled *Challenges in Public Administration in the EU* were co-financed by the Erasmus Lifelong Learning Programme.

The programme lasted for ten days and it involved 32 students and 17 teachers from eight different countries. The teaching language was English. The main objective of the programme was to discuss topics on current and future challenges of public administration with particular stress on the small-country perspective in the process of public administration transformation. The programme included five modules: English for Academic Purposes; Public Administration and Public Services: Modernization & Challenges; Public Administration and Crisis: Institutions & Policies; Creativity and Innovations in Public Administration; and Trends in Public Management and Organization. Participants' evaluations revealed

that they particularly liked the topics on how to be creative and ensure innovations, on managerial and ethical challenges in public administration, on cutbacks and current administrative reorganizations as well as on current issues in public sector budgeting.

Furthermore, the program included two study visits. The first one was the visit to the Ministry of the Environment and Spatial Planning, where participants acquainted the knowledge on sustainable development and environmental policies at the EU and national levels. The second study visit involved visiting the City of Ljubljana, where green policies of the city and Green Capital 2016 project were presented to participants. The organisation of the whole programme was environmentally friendly, participants as well as lecturers took active part in an “eco-friendly” initiative through actions such as “no paper policy” and only e-study materials, mobile applications, e-exam etc. were utilised in the classroom: The participants were encouraged to consider using alternative transportation modes as much as possible (e.g., using bicycle sharing system), etc. This was considered a first step for the Faculty of Administration to become the organization certified with the Green Office.

The programme finished with the closing conference where participants presented their seminar papers and the head of the programme summed up the programme, delivered conclusions, and evaluated impressions. The added value of the programme was the knowledge transfer, since public administration programmes often tend to be “small-scale niche programmes”. Consequently, in order to ensure the programme quality and enable sufficient accumulation and transfer of knowledge, a consortium included seven partner universities, each with specific competitive advantage. Furthermore, all partner universities came from small countries in order to show this perspective clearly.

Primož Pevcin and Marija Sušnik***

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Četvrti tursko-bosanskohercegovačko-hrvatski pravnički dani

UDK 340.5(560:497.6:497.5)

Od 22. do 24. travnja 2015. na Pravnom fakultetu Sveučilišta u Istanbulu održana je znanstvena konferencija pod nazivom *Četvrti tursko-bosansko-hercegovačko-hrvatski pravnički dani*. Konferencija je organizirana u okviru suradnje između Pravnog fakulteta Sveučilišta u Istanbulu i Pravnog fakulteta Sveučilišta u Zagrebu započete prije nekoliko godina, kojoj se od 2015. pridružio i Pravni fakultet Sveučilišta u Sarajevu.

Tema konferencije bila je medicinsko pravo, a obrađena je s različitih aspekata – kaznenopravnog, građanskopravnog i upravnopravnog. Sudje-lovalo je 19 znanstvenika sa sva tri fakulteta, koji su održali ukupno 17 izlaganja podijeljenih u pet sesija.

Prva je sesija bila posvećena upravnim i upravnopravnim te teorijskim aspektima medicinskog prava, a izlaganja su održali doc. dr. sc. Enver Ajanović s Pravnog fakulteta Sveučilišta u Sarajevu na temu *Administrative Aspects of the Health Care System: Madrid Protocol and Turkey*, doc. dr. sc. Goranka Lalić Novak i doc. dr. sc. Vedran Đulabić s Pravnog fakulteta Sveučilišta u Zagrebu na temu *Services of General Interest and Europeanisation of Health Policy in Croatia* i mr. sc. Midhat Izmirlija s Pravnog fakulteta Sveučilišta u Sarajevu na temu *Theory of law: Just Health Care: The Case of Bosnia and Herzegovina*.

U okviru druge i treće sesije naglasak je stavljen na različite građansko-pravne aspekte medicinskog prava, s izlaganjima prof. dr. sc. Tatjane Josipović s Pravnog fakulteta Sveučilišta u Zagrebu na temu *Cross-Border Provision of Medical Services and Mutual Recognition of Qualifications in Medicine*, prof. dr. sc. Melihe Powlakić s Pravnog fakulteta Sveučilišta u Sarajevu na temu *The Impact of the Evolution of the Medical Law on Private Law in Bosnia and Herzegovina*, prof. dr. sc. Zafera Zeytina s Pravnog fakulteta

Sveučilišta u Istanbulu na temu *The duty to inform in Patient-Doctor's Relationship*, prof. dr. sc. Abedina Bikića s Pravnog fakulteta Sveučilišta u Sarajevu na temu *Medical law in Bosnia and Herzegovina*, izv. prof. dr. sc. Marka Baretića s Pravnog fakulteta Sveučilišta u Zagrebu na temu *Product Liability in Medicine*, izv. prof. dr. sc. Saše Nikšića s Pravnog fakulteta Sveučilišta u Zagrebu na temu *Fault as a Condition of a Medical Liability* te izv. prof. dr. sc. Bašaka Baysala s Pravnog fakulteta Sveučilišta u Istanbulu na temu *An Overview of Turkish Tort Law*.

Pojedini kaznenopravni aspekti medicinskog prava prezentirani u u okviru četvrte i pete sesije, a izlaganja su održali prof. dr. sc. Adem Sözüer s Pravnog fakulteta Sveučilišta u Istanbulu na temu *Criminal Responsibility of Physicians in Turkish Criminal Law*, prof. dr. sc. Borislav Petrović i doc. dr. sc. Amila Ferhatović s Pravnog fakulteta Sveučilišta u Sarajevu na temu *Criminal law: Medical error as a basis for criminal responsibility of physicians in Bosnia and Herzegovina*, prof. dr. sc. Davor Derenčinović s Pravnog fakulteta Sveučilišta u Zagrebu na temu *Criminal Responsibility of Physicians*, doc. dr. sc. Gottfried Plagemann na temu *Euthanasia in Turkish and German Law*, izv. prof. dr. sc. Elizabeta Ivičević Karas s Pravnog fakulteta Sveučilišta u Zagrebu na temu *Medical Interventions into the Physical Integrity of a Person to Collect Evidence for the Purposes of Criminal Proceedings*, izv. prof. dr. sc. Mehmet Maden s Pravnog fakulteta Sveučilišta u Istanbulu na temu *Right to Respect for Private Life in Medical Law* te asistentica Rahime Erba s Pravnog fakulteta Sveučilišta u Istanbulu na temu *The Use of DNA Evidence in the Turkish Criminal Procedure with a Comparative Perspective*.

Nakon izlaganja uslijedile su dinamične rasprave, u kojima su razmijenjena iskustva o pojedinim temama, iz perspektive hrvatskog, bosanskohercegovačkog, turskog i europskog prava i prakse. Konferencija je okupila šezdesetak sudionika iz akademske zajednice, pravnih i upravnih praktičara te studenata Pravnog fakulteta Sveučilišta u Istanbulu.

U okviru svečanosti otvaranja konferencije profesoru Pravnog fakulteta Sveučilišta u Zagrebu dr. sc. Ivi Josipoviću dodijeljen je počasni doktorat Sveučilišta u Istanbulu.

Goranka Lalić Novak*

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*Jasmina Džinić**

UDK 35.076(039)

Deutero učenje (engl. *deutero learning*), tzv. učenje drugog reda tip je učenja predmet kojeg je učenje samo. Riječ je o učenju kako učiti. Schön ističe važnost deutero učenja u uvjetima gdje nas nestabilnost svojstvena suvremenom društvu tjera da učimo razumjeti promjene i upravljati njima. Posljedica toga je potreba razvoja institucija koje su »učeci sustavi« sposobni ostvarivati vlastitu kontinuiranu promjenu. Do deutero učenja u organizaciji dolazi kada članovi organizacije nauče kako provesti učenje u jednostrukom odnosno dvostrukom krugu i uklope rezultate tog učenja u individualne slike i zajedničke mape koji se onda odražavaju u organizacijskoj učećoj praksi. Uspješne učeće organizacije su one koje na temelju svog iskustva u učenju razvijaju i testiraju nove strategije učenja. Stoga nastojanje da se učeći kapacitet organizacije ojača treba imati upravo formu deutero učenja.

Instrumenti unapređenja kvalitete (engl. *quality improvement instruments*), posebna sredstva kreirana radi podizanja kvalitete rada, proizvoda i usluga u organizacijama. Većina njih razvijena je u okviru privatnog sektora, ali ih zbog povećanja interesa u području upravljanja kvalitetom (*quality management*) počinju primjenjivati i organizacije javnog sektora. Zbog posebnosti koje obilježavaju taj sektor došlo je do određenih prilagodbi preuzetih instrumenata, ali i do razvoja manjeg broja instrumenata namijenjenih prvenstveno organizacijama javnog sektora. Najučestalije korišteni instrumenti unapređenja kvalitete u europskim organizacijama javne uprave su *Balanced Scorecard* (BSC), *Business Process Reengineering*

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(BPR), *EFQM Excellence Model*, *ISO standardi upravljanja kvalitetom*, istraživanje zadovoljstva korisnika, nagrade za kvalitetu u javnom sektoru, PDCA krug, PEST i SWOT analiza, povelje javnih službi (*Citizen's Charters*), revizija i zajednički okvir za ocjenjivanje (*Common Assessment Framework – CAF*). Neki od menadžerskih instrumenata razvijeni za potrebe privatnog sektora koji se rjeđe koriste kao instrumenti za podizanje kvalitete u javnom sektoru su *quality function deployment (QFD)*, projektni menadžment, centri za procjenu, menadžment pritužbi, upravljanje ugovorima, ocjenjivanje od strane podređenih, sporazum o razini usluge (SLA), instrumenti planiranja i razvoja politike, Kaizen, Six Sigma, lanac ponude (*Supply Chain*) i drugi.

Kvaliteta u javnoj upravi (engl. *quality in public administration*), pojam kojemu se može pristupiti s različitih perspektiva, pa se sukladno tome mijenjaju shvaćanja i definicije tog koncepta. Općenito, razlikuje se nekoliko ključnih konceptata kvalitete: kvaliteta shvaćena kao poštovanje normi i procedura, kvaliteta u smislu ostvarivanja postavljenih ciljeva, kvaliteta u smislu postizanja zadovoljstva klijenata te kvaliteta kao »strastvena uključenost emocija«. Shvaćanje kvalitete kao poštovanja normi i procedura karakterizira klasični model javnog menadžmenta utemeljen na upravljanju putem propisa koji se razvio krajem 19. st. i ostao dominantan do sredine 20. st. Kvaliteta se postiže formalno korektnim djelovanjem odnosno isključivanjem svake arbitrarnosti u postupanju. Takvo shvaćanje odgovara ranijem označavanju kvalitete kao tehničke usklađenosti sa specifikacijama u industriji. Tijekom 1960-ih u javnoj upravi postaje popularno upravljanje putem ciljeva, što je donekle promijenilo dotadašnje shvaćanje kvalitete. Kvaliteta se počinje povezivati sa svrhom kojoj proizvod odnosno usluga treba služiti, odnosno s postizanjem organizacijskih ili društvenih ciljeva. Dakle, ako proizvod ili usluga postiže namjeravanu svrhu, riječ je o kvalitetnom proizvodu ili usluzi. Orijehtacija na korisnika značajna je karakteristika cjelovitog upravljanja kvalitetom (engl. *Total Quality Management – TQM*), pristupa koji se u javnom sektoru, prvenstveno SAD-a i Velike Britanije, počeo primjenjivati tijekom 1980-ih. Postizanje zadovoljstva korisnika, pa i nadilaženje njegovih očekivanja, postaju polazna točka pri utvrđivanju ostvarenog stupnja kvalitete. Kvalitetu kao strastvenu uključenost emocija nastojao je objasniti Robert M. Pirsig u svom djelu posvećenom metafizici kvalitete: *Zen i umjetnost održavanja motocikla*. Prema njegovu shvaćanju, kvaliteta se ne može definirati jer empirijski prethodi bilo kakvoj intelektualnoj konstrukciji. Ipak, ona se manifestira u dva oblika, dinamičnom i statičnom. Dinamična kvaliteta može se razu-

mjeti samo primjenom analogije te se prepoznaje prije bilo kakve konceptualizacije. S druge strane, statična kvaliteta je sve što se može definirati i uklopiti u određene obrasce. Kada dinamični aspekt kvalitete postane uobičajen, pretvara se u statične obrasce (podatke, očekivanja...) koji se razmjenjuju među ljudima i čine temelj širenja znanja. Analogno razlikovanju dinamičnog i statičnog aspekta kvalitete jest razlikovanje romantičnog i klasičnog razumijevanja kvalitete. Primjena klasičnog pristupa koji uključuje praćenje uputa kako raditi određeni posao da bi se postigli dobri rezultati doista će rezultirati takvim rezultatima. Međutim, to nije dovoljno za postizanje kvalitete. Klasičnom pristupu potrebno je pridodati i onaj romantični koji uključuje racionalno neobjašnjive kreativnost i intuiciju. Dakle, iako se kvaliteta ne može definirati, zna se što ona jest.

Organizacijska prilagodba (engl. *organizational adaptation*), s jedne je strane reakcija organizacije na podražaje iz okoline koja ne uključuje promjene na kognitivnoj razini, nego se iscrpljuje u promjeni ponašanja. S druge strane, ona je jedan od mogućih ciljeva koji se nastoje ostvariti procesom organizacijskog učenja odnosno rezultat do kojeg taj proces može dovesti. Dio autora ne pravi razliku između prilagodbe i učenja, smatra da prilagodba ne uključuje samo promjene u ponašanju, nego i kognitivan razvoj, ili pak prilagodbu smatra jednim oblikom učenja. Drugi autori i ne govore o učenju, već prilagodbi pridaju značajke koje se inače smatraju sadržajem organizacijskog učenja (kognitivni razvoj). Meyer se terminom »organizacijska prilagodba« koristi kako bi opisao dva oblika adaptacije koji uključuju razumijevanje uzročno-posljedičnih veza između poduzetih akcija i njihovih ishoda. Pritom se prilagodba smanjenjem odstupanja (*deviation-reducing adaptation*) odvija u okviru određenog skupa organizacijskih normi, dok prilagodba pojačavanjem odstupanja (*deviation-amplifying adaptation*) uključuje stvaranje novih uzročnih odnosa izgrađenih na novim pretpostavkama. Riječ je samo o drugačijem označavanju onoga što drugi autori nazivaju učenjem u jednostrukom odnosno dvostrukom krugu. Treća grupa autora prilagodbu ne smatra učenjem, već reakcijom na podražaje koja se sastoji u promjeni ponašanja, a ne i u promjenama na kognitivnoj razini. Tako, primjerice, Hedberg ističe da učenje uključuje razumijevanje razloga koji stoje iza određenih događaja, dok je prilagodba tek obrambeno usklađivanje. Ipak, smatra da u jednom dijelu učenja ponašanje ne zahtijeva razumijevanje, što upućuje na to da se jednostavna prilagodba (bez razumijevanja uzročnih veza između akcija i njihovih ishoda) može shvatiti kao jedan oblik ili dio učenja, ali da učenje obuhvaća i više od toga.

Organizacijsko učenje (engl. *organizational learning*), promjena individualne i zajedničke spoznaje (i eventualno ponašanja) koja se ugrađuje u institucije organizacije kojima je i sama uvjetovana. O organizacijama kao učećim entitetima počelo se razmišljati i pisati u drugoj polovini 20. stoljeća. Početna razmišljanja o organizacijskom učenju postavili su R. Cyert i J. G. March te C. Argyris i D. A. Schön 1960-ih odnosno 1970-ih godina. Njihovi argumenti u korist organizacijskog učenja temelje se na pretpostavci postojanja posebne organizacijske memorije neovisne o pojedinim članovima organizacije te shvaćanju da organizacijsko učenje ne predstavlja zbroj pojedinačnih učenja članova organizacije. Za razliku od istraživanja individualnog učenja, koja uglavnom proizlaze iz psiholoških studija ljudskog ponašanja, istraživanje organizacijskog učenja je fragmentirano i multidisciplinarno. Velik broj različitih shvaćanja tog koncepta otežava njihovo organiziranje, klasificiranje i sistematiziranje te čak dovodi do manjka jasnoće. Ne postoji jedan analitički ili konceptualni model organizacijskog učenja koji bi poslužio kao temelj proučavanja organizacijskog učenja, nego samo niz pristupa koji korijene vuku iz različitih teorijskih shvaćanja. Tako, primjerice, Shrivastava razlikuje organizacijsko učenje kao prilagodbu (*organizational learning as adaptation*), organizacijsko učenje kao dijeljenje pretpostavki (*organizational learning as assumption sharing*), organizacijsko učenje kao razvoj znanja o odnosima djelovanja i ishoda (*organizational learning as action-outcome relationships*) i organizacijsko učenje kao institucionalizirano iskustvo (*organizational learning as institutionalized experience*). Wiegand svoju klasifikaciju temelji na povijesnom razvoju i konceptijskom razlikovanju pristupa koje, sukladno tome, dijeli na sljedeće: rani pristup (Cyert i March 1963; March i Olson 1975; Levitt i March 1988), pristupe koji naglasak stavljaju na pojedinca kao zastupnika organizacije (Argyris 1964; Argyris i Schön 1978; Argyris 1990; Argyris i Schön 1996), pristupe utemeljene na znanju (Duncan i Weiss 1979; Pautzke 1989; Huber 1991; Walsh Ungson 1991; Pawlowsky 1992, 1994; Nonaka 1994, 1987), eklektične pristupe (Senge 1990; Hedberg 1981), integrativne pristupe (Shrivastava 1983; Fiol i Lyles 1985; Bomke et al. 1993; Dodgson 1993), pristupe utemeljene na sistemskom razmišljanju i teoriji sustava (Klimecki et al. 1991; Reinhardt 1993; Schreyögg i Noss, 1995) te normativno-individualistički pristup (Pedler et al. 1991; Garratt 1990). Edmondson i Moingeon razlikuju četiri pristupa: *reziduume* (organizacije kao ostaci učenja iz prošlosti), *zajednice* (organizacije kao kolektiviteti pojedinaca koji mogu učiti i razvijati se), *sudjelovanje* (organizacijski razvoj na temelju inteligentne aktivnosti pojedinaca) i *odgovornost* (organizacijsko unapređenje na temelju razvoja mentalnih modela

pojedinaca). Početna razmišljanja o organizaciji kao entitetu koji može učiti te kasniji sistemski pristupi posebno naglašavaju ulogu učenja u procesu prilagodbe organizacije okolini. Prilagodba organizacije okolini na temelju procesa učenja ponajprije se promatrala kao mehanički proces odnosno kao reakcija organizacije na podražaje koji dolaze iz okoline, a članovi organizacije kao kontejneri za skladištenje racionalnih iskustava iz prošlosti. Međutim, s vremenom se organizacijsko učenje počinje shvaćati kao složeni proces razmjene i procesuiranja informacija između organizacije i okoline, ali i kao proces stvaranja organizacijskog znanja. Osim toga, mnogi autori organizacijsko učenje vide kao varijablu u međusobnoj zavisnosti s drugim kontekstualnim faktorima, pri čemu prevladavaju ona shvaćanja koja ključnom smatraju organizacijsku kulturu.

Organizacijsko učenje u jednostrukom krugu (engl. *single-loop learning*), proces utvrđivanja i ispravljanja pogrešaka koji organizaciji dopušta nastavak djelovanja u skladu s postojećim politikama i ostvarivanje postojećih ciljeva. Ovdje je ponajprije riječ o pitanju djelotvornosti odnosno o tome kako najbolje postići postojeće ciljeve i kako najbolje održati organizacijsko djelovanje u okviru postojećih normi. Pitanja koja se postavljaju u okviru ovog tipa učenja jesu: Radimo li to što radimo na dobar način? Možemo li to raditi na produktivniji način, jeftinije, koristeći se alternativnim metodama ili pristupima radi postizanja istih ciljeva? Utvrđivanje nesklada između očekivanih i realiziranih rezultata potiče organizaciju da traži načine za njegovo uklanjanje odnosno unapređenje svoga djelovanja. Učenje u jednostrukom krugu naziva se i instrumentalnim učenjem budući da uključuje promjenu strategija djelovanja ili pretpostavki na kojima se te strategije temelje uz zadržavanje vrijednosti koje se djelovanjem nastoje ostvariti. Riječ je o sposobnosti organizacije da ostane stabilna u promjenjivom okruženju. Da bi došlo do učenja, članovi organizacije moraju utvrditi usklađenost ili neusklađenost između očekivanja i ishoda djelovanja. U slučaju neusklađenosti, oni se okreću ispravljanju identificirane pogreške, što uključuje istraživanje njezina uzroka, razvoj novih strategija utemeljenih na novim pretpostavkama te vrednovanje i generalizaciju rezultata nove akcije. Takvo učenje često se uspoređuje s termostatom koji je programiran da se prilagođava temperaturi tako da kad je previše toplo ili previše hladno isključuje odnosno uključuje grijanje. Termostat može izvršiti taj zadatak jer može primiti informaciju (temperaturu sobe) i poduzeti korektivnu mjeru.

Organizacijsko učenje u dvostrukom krugu (engl. *double-loop learning*), učenje koje uključuje promjenu vrijednosti u organizaciji. Naime, da bi se ispravila utvrđena pogreška, u nekim slučajevima nije dovoljno promijeniti organizacijske strategije i pretpostavke u okviru postojećih normi i ciljeva djelovanja, nego i temeljne norme, politike i ciljeve organizacije. Za razliku od učenja u jednostrukom krugu koje naglasak stavlja na pitanje djelotvornosti, učenje u dvostrukom krugu vezano je uz pitanje učinkovitosti. Dakle, prvenstveno dolazi do promjene u vrijednostima teorija u upotrebi članova organizacije, ali se, kao kod učenja u jednostrukom krugu, istodobno ili kao posljedica promjene u vrijednostima, mijenjaju i strategije te pretpostavke na kojima se one temelje. Pritom je potrebno razlikovati vrijednosti rezultata učenja od vrijednosti koje obilježavaju sam učeći proces. Iz navedenog razlikovanja proizlazi i podjela učenja u dvostrukom krugu na dva tipa učenja. Prvi se odnosi na promjene vrijednosti organizacijske teorije u upotrebi vezane uz ishode djelovanja organizacije (ciljeve i politike), dok drugi uključuje promjenu vrijednosti organizacijske teorije u upotrebi koje se odnose na proces organizacijskog istraživanja odnosno organizacijske norme. Argyris i Schön ističu da je učenje u dvostrukom krugu teško postići ponajprije zato što pojedinci i organizacije nisu svjesni svojih teorija akcije (teorije u upotrebi na temelju koje djelujemo odnosno planiramo, provodimo i pregledavamo svoje akcije te proklamirane teorije na koje se pozivamo u svojim djelovanjima prema drugima). Međutim, i u slučajevima kada su ljudi svjesni potrebe za promjenom, postoji određena sklonost organizacija tome da stvaraju takve učeće sustave koji sprječavaju učenje u dvostrukom krugu. Nastojanje ljudi da se zaštite od neugodnosti dovodi do skrivanja pogrešaka ili potreba za promjenom o kojima se stoga ne raspravlja, što proces učenja u dvostrukom krugu čini neprovedivim. S obzirom na specifičnosti položaja upravnih organizacija u odnosu na politička tijela u pogledu definiranja ciljeva njihova djelovanja, čini se da su one posebno ograničene u pogledu mogućnosti razvoja učenja u dvostrukom krugu. Međutim, treba imati na umu da taj tip učenja ne uključuje tek promjenu ciljeva i politika organizacije, nego i normi na temelju kojih ona djeluje. Osim toga, treba uzeti u obzir ulogu upravnih organizacija u utvrđivanju operativnih ciljeva te kreiranju i provedbi javnih politika, što ih čini prikladnim subjektom u procesu razvoja učenja u dvostrukom krugu.

Učeća organizacija (engl. *learning organization*), u literaturi se definira kao organizacija koja potiče pojedinačno i kolektivno učenje kako bi se stalno mijenjala (Burgoyne), organizacija koja ima jak učeći kapacitet koji

stalno unapređuje (Finger i Brand), organizacija vješta u stvaranju, stjecanju i prenošenju znanja te u modificiranju svoga ponašanja kao odraza novog znanja i uvida (Garvin), organizacija koja zaključke iz prošlosti uklapa u rutine koje vode ponašanje (Levitt i March), organizacija koja brzo identificira, obrađuje i primjenjuje lekcije naučene na temelju interakcija s okolinom (McNabb), organizacija koja olakšava učenje svih svojih članova te se kontinuirano mijenja (Pedler et al.), organizacija u kojoj ljudi neprestano razvijaju svoje mogućnosti kako bi došli do rezultata koje doista žele, u kojoj se njeguju novi i otvoreni modeli mišljenja, u kojoj su kolektivne težnje slobodne i u kojoj ljudi neprestano uče kako učiti zajedno (Senge) i sl. Učeću organizaciju treba razlikovati od organizacijskog učenja. Naime, kod proučavanja razvoja i analize organizacijskog učenja naglasak se stavlja na razumijevanje učećih procesa i načina na koji se stvara i koristi znanje u organizaciji, dok je kod učeće organizacije naglasak na opisivanju karakteristika organizacija koje uče i pronalženju rješenja za unapređenje učećih kapaciteta i procesa. Razlikuju se tehnički i socijalni pristupi konceptu učeće organizacije. Tehnički pristupi orijentirani su na intervencije utemeljene na mjerenjima ishoda učenja uz pomoć različitih indikatora. Tradicionalno su to bile krivulje učenja (*learning curves*), naročito popularne u sektoru proizvodnje. Temeljile su se na logici obrnute proporcionalnosti troškova i rezultata proizvodnje kao ishodu procesa učenja, a sastojale u prikupljanju podataka o troškovima proizvodnje. Glavna pretpostavka tog pristupa bila je da će objavljivanje podataka o smanjenju troškova potaknuti daljnje učenje. Tome indikatoru poslije su dodani i neki drugi, poput mjerenja kvalitete proizvoda i istraživanja stavova zaposlenika. Polazna točka socijalnih pristupa učećoj organizaciji sposobnost je pojedinaca da uče iz vlastitog iskustva i od drugih ljudi iz radnog okruženja, kao i zajedno s njima. Stoga se naglašava važnost unapređenja kvalitete komunikacijskih procesa, često putem intervencija utemeljenih na načelima slobode komunikacija i iznošenja vlastitih stajališta unutar radnih grupa.

Upravljanje kvalitetom (engl. *quality management*), dio funkcije upravljanja usmjeren na utvrđivanje i provođenje politike kvalitete. Politika kvalitete ostvaruje se u okviru sustava kvalitete pomoću planiranja kvalitete, praćenja/kontrole kvalitete, osiguranja kvalitete i unapređenja kvalitete. Prema normi HRN EN ISO 9000:2008, planiranje kvalitete dio je upravljanja kvalitetom usmjeren na određivanje ciljeva kvalitete i utvrđivanje potrebnih provedbenih procesa te odgovarajućih resursa za postizanje ciljeva kvalitete. Kontrola kvalitete sastoji se od provjere ispunjavanja

osnovnih zahtjeva vezanih za kvalitetu odnosno na ispunjavanje propisanih standarda, dok osiguranje kvalitete obuhvaća planirane i sistematične aktivnosti usmjerene na ispunjenje zahtjeva u pogledu kvalitete proizvoda i usluga. Unapređenje kvalitete odnosi se na promjenu koja se odražava u podizanju razine kvalitete tako da postoji razlika stanja prije provedbe procesa unapređenja i nakon njegove provedbe. Stoga je unapređenje kvalitete dinamičan koncept kojeg je temeljna karakteristika kontinuitet, za razliku od kontrole i osiguranja koji su statičnog karaktera i više usmjereni ispunjavanju postavljenih standarda bez obzira na mogućnosti u postizanju viših razina kvalitete.

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In case authors or their other papers are cited in the article, these references must be extracted from the text into a separate document. For the purpose of the review, authors' names must be deleted from manuscripts.

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- Abstracts and summaries should contain a concise statement of the scope and main findings of the paper;
- The title of the paper should be concise and informative.

PAPER FORMATTING

1. The journal *Croatian and Comparative Public Administration* uses in-text citation, while the footnotes are used for further explanations (APA citation style; see www.apastyle.org).

For in-text citation, please use the author(s), year of publication and page numbers.

Example: The more recent administrative concepts, like Neo-Weberian State (NWS), consider efficiency to be one of the anchors of public administration, one of the basic values that must be taken into account, although not alone. It is a component of broader value mix, along with democratic and legal values (Kickert, 2001: 33; Randma-Liiv, 2008/2009, 77–78; Kopric, 2009a, 4–5).

2. All the references must be indicated at the end of the text. The reference list can contain only references directly used by the author in the manuscript.

References:

Book: Peters, B. Guy (2001) *The Politics of Bureaucracy*. London and New York: Rutledge.

Book chapter: Wollmann, Hellmut (2003) *Current Administrative Reforms in Germany*. In: Ivan Koprić (ed.) *Modernisation of the Croatian public administration*. Zagreb: Social Sciences Polytechnic

Journal Article: Koprić, Ivan (2011) *Administrative Technology and General Administrative Procedure: Challenges and Changes in South-Eastern Europe*. *Croatian and Comparative Public Administration* 11(2), 435–454

Article presented at a conference/round table: Rusch, Wolfgang (2009) *Administrative Procedures in EU Member States*. Paper presented at the Conference on Public Administration Reform and European Integration, OECD-Sigma, Budva, 26–27 March

Document: OECD-Sigma (2010) *Administrative Procedures in Transition Countries*, www.sigmaxweb.org

Legal regulation: Law on general administrative procedure, Official Gazette 47/09

Articles may also contain references to other texts, websites, etc.

When websites or documents taken from websites are cited, it is not necessary identify date of access.

Articles should be submitted in Microsoft Word document format, in Times New Roman, size 12 font, with 1.5 line spacing.

Tables and figures should be placed within the text.

Upute autorima

VRSTE RADOVA

Časopis objavljuje recenzirane radove, informacije i druge tekstove koji s različitih aspekata osvjetljavaju pitanja i probleme javne uprave.

U časopisu se objavljuju:

1. *Recenzirani radovi* – radovi podliježu recenzijskom postupku te se mogu kategorizirati kao

- izvorni znanstveni rad
- pregledni znanstveni rad
- prethodno znanstveno priopćenje
- stručni rad.

Prilikom objave radovi se razvrstavaju u odgovarajuće rubrike časopisa. O razvrstavanju odlučuje Uredništvo časopisa na prijedlog glavnog urednika. Recenzijski se postupak odvija po pravilima dvostruko slijepe recenzije koja jamči anonimnost autora spram recenzenata, i obrnuto.

2. *Prikazi knjiga i časopisa iz interdisciplinarnog područja javne uprave* – ne podliježu recenzijskom postupku.

3. *Sudska i upravna praksa* – uključuje analize, prikaze i prijevode relevantnih presuda i rješenja hrvatskih i europskih sudova i upravnih tijela koji ne podliježu recenzijskom postupku.

4. *Vijesti o održanim konferencijama te prikazi znanstvenih i stručnih skupova* – služe informiranju čitatelja o najnovijim događanjima u području javne uprave i javnog sektora u Hrvatskoj i svijetu. Ova kategorija ne podliježe recenzijskom postupku.

5. *Pojmovnici* – služe kratkom objašnjenju najvažnijih pojmova u interdisciplinarnom području javne uprave. Ne podliježu recenzijskom postupku.

Radovi se objavljuju na hrvatskom ili engleskom jeziku, a iznimno i na drugim stranim jezicima (slovenski, njemački, francuski, talijanski, španjolski, portugalski). Uredništvo će osigurati da značajni dio radova i drugih tekstova bude na hrvatskom jeziku, odnosno da se osiguraju prijevodi ili duži sažeci radova na hrvatskom jeziku. Prije objave radovi prolaze postupak lekture tijekom kojeg može doći do izmjena teksta.

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